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SELECTED READINGS IN AMERICAN HISTORY

EDITED BY
THEODORE CALVIN PEASE
UNIVERSITY OF ILLINOIS
AND
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KENT STATE NORMAL COLLEGE, OHIO

Enlarged Edition



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PREFACE

In the preparation of a source book of American History for college use, certain limitations make themselves felt at the very beginning. It is impossible to apportion documents to the various periods and phases of American history in proportion to their importance. Certain documentary source materials present themselves in a small compass, others are so bulky as to be absolutely unmanageable; it is much easier to select the essentials from an act of Congress of the early nineteenth century than from one of the twentieth. In the ordinary sense of the term, documentation of social, economic, and even much political history is impossible.

Therefore, the present work, necessarily, has been constructed with the primary notion of giving the student exercise in the use of sources of such nature that essentials can be brought together in a small compass. Furthermore, while the idea of a documentary source book in the usual sense has been borne in mind, an attempt has been made to mass materials on certain topics of American History in order to make possible a comparative study. Thus the instructor will find extensive bodies of material gathered on such topics as the economic and social life of the various colonies, on the history of imperial control from the navigation acts to Lord North's last attempt to conciliate America; the American side of the Revolutionary controversy, the transition to independence and organized government, the diplomatic trials and triumphs of the new republic are all represented by considerable sections of source materials. The humanitarian forces of the early nineteenth century, the questions of nullification, of state sovereignty, of expansion, the Compromise of 1850, the coming of the Civil War, Civil War legislation, reconstruction, all have their place.

The fact that the diplomatic documents of the last fifty years are more easily handled in a source book than the legislative and administrative ones has led to a stronger emphasis on the diplomatic phases of recent history. The evolution of the Monroe Doctrine, United States hegemony in the Caribbean, the problems of the Pacific, the diplomacy of the World War and its aftermath have all been given full attention. To edit the Treaty of Versailles for insertion proved an impossible task. Instead, the Senate Peace Resolution of February-March, 1920, is included. Later sections of the book also include the history of

American finance from the sub-treasury to the Federal Reserve System; agrarian unrest and attempts to satisfy it, from the Grange to the McNary-Haugen Bill; the attempt of the nation to deal with big business, and the development of organized labor.

The most radical departure from established conventions in the present work is the inclusion of materials not strictly documentary. To illustrate past phases of social life, political and economic situations not to be summed up in official documents, extracts have been drawn from books of travel and description, political speeches, governments of quasi public and private origin, etc. These it is hoped will help to arouse and hold the student's interest on what is usually the most laborious part of a course in American history.

Grateful acknowledgments are due to Professors J. G. Randall, A. O. Craven, and Louise B. Dunbar of the University of Illinois, who have offered many helpful suggestions as to the content of the volume.

The authors offer grateful acknowledgments to Random House for permission to use numbers 273 and 284; to the Brookings Institution for number 278; and to Mr. Ellis O. Briggs for number 288. Their indebtedness to Professor Raymond C. Werner of the University of Illinois for the plan and execution of the present addition to the volume, based on his own long experience with the college American history course is too deep for adequate expression.

TABLE OF CONTENTS

1. ADVANTAGES OF COLONIZATION. HAKLUYT. 1584	1
2. THE VIRGINIA CHARTERS. 1606, 1609, 1612	4
3. THE MAYFLOWER COMPACT. NOV. 11-12, 1620	10
4. THE MASSACHUSETTS BAY CHARTER. MAR. 4-14, 1628-29	11
5. THE CAMBRIDGE AGREEMENT. AUG. 26-SEPT. 5, 1629 ...	15
6. THE CHARTER OF MARYLAND. JUNE 20-30, 1632	16
7. NEW ENGLAND CONFEDERATION. SEPT. 7-17, 1643	19
8. THE NAVIGATION ACTS. 1660, 1663, 1672	24
9. THE CONNECTICUT CHARTER OF 1662	28
10. THE CHARTER OF RHODE ISLAND. JULY 8-18, 1663	31
11. THE FUNDAMENTAL CONSTITUTION OF CAROLINA. 1699	33
12. ESTABLISHMENT OF THE LORDS OF TRADE. MAR. 12-22, 1674-75	35
13. THE CHARTER OF PENNSYLVANIA. MAR. 4-14, 1680-81 ...	36
14. LA SALLE ON THE MISSISSIPPI, 1681-82. JACQUES DE LA METAIRIE	38
15. ESTABLISHMENT OF THE BOARD OF TRADE. MAY 15, 1697	41
16. THE FOUNDING OF LOUISIANA, 1698-1718. DE LA HARPE	44
17. NEW ENGLAND IN 1720. DANIEL NEAL	47
18. A DEFENCE OF NEW ENGLAND'S SELF-GOVERNMENT. JEREMIAH DUMNER. 1721	51
19. THE MOLASSES ACT. 1733	54
20. LIFE IN THE MIDDLE COLONIES. 1740-49	55
21. COLONIAL PHILADELPHIA. PETER KALM. 1770	58
22. ACCOUNT OF FRENCH CANADA. PETER KALM. 1770-71 ..	60
23. ALBANY PLAN OF UNION. 1754	62
24. THE CAROLINAS IN 1757. EDMUND BURKE (?)	65
25. VIRGINIA IN 1759. BURNABY	70
26. WORKING OF THE BOARD OF TRADE. REMOVAL OF A ROYAL GOVERNOR. MAR. 27, 1762	73
27. THE PROCLAMATION OF 1763. OCT. 7, 1763	75
28. WORKING OF THE IMPERIAL GOVERNMENT. POWNALL. 1764	79
29. THE SUGAR ACT. APR. 5, 1764	81
30. THE STAMP ACT. MAR. 22, 1765	83

31. PATRICK HENRY'S STAMP ACT SPEECH. MAY 30, 1765 ...	84
32. DECLARATION OF RIGHTS AND GRIEVANCES. 1765	86
33. BENJAMIN FRANKLIN ON THE STAMP ACT. FEB. 13, 1766	88
34. THE DECLARATORY ACT. MAR. 18, 1766	94
35. THE TOWNSHEND ACT. JUNE 29, 1767	95
36. THE NORTH CAROLINA REGULATORS. SAUNDERS. 1770 ..	96
37. THE BOSTON TEA PARTY. DEC. 1773	99
38. WESTERN UNREST. 1773	102
39. THE BOSTON PORT ACT. MAR. 31, 1774	105
40. THE GOVERNMENT OF MASSACHUSETTS ACT. MAY 20, 1774	106
41. ADMINISTRATION OF JUSTICE ACT. MAY 20, 1774	109
42. THE CALL OF THE FIRST CONTINENTAL CONGRESS. JUNE 17, 1774	110
43. THE QUEBEC ACT	111
44. THE MEETING OF THE FIRST CONTINENTAL CONGRESS. JOHN ADAMS. SEPT. 5, 1774	115
45. THE AMERICAN ASSOCIATION. OCT. 20, 1774	116
46. THE ENFORCEMENT OF THE ASSOCIATION. LORD DUN- MORE. DEC. 24, 1774	120
47. TREATMENT OF THE TORIES. RIVINGTON'S GAZETTE. 1775	122
48. THE AMERICAN AND BRITISH REPORTS OF LEXINGTON AND CONCORD. 1775	124
49. DECLARATION OF THE CAUSES AND NECESSITY OF TAK- ING UP ARMS. JULY 6, 1775	127
50. A STATE GOVERNMENT IN THE REVOLUTION. JAN. 5, 1776	131
51. ADVICE OF CONGRESS TO FORM STATE GOVERNMENTS. MAY 15, 1776	133
52. VIRGINIA BILL OF RIGHTS. JUNE 12, 1776	134
53. THE RESOLUTION FOR INDEPENDENCE. JULY 2, 1776	137
54. THE DECLARATION OF INDEPENDENCE. JULY 4, 1776	137
55. THE ARTICLES OF CONFEDERATION. NOV. 15, 1776	141
56. LORD NORTH'S PROPOSALS FOR CONCILIATION. FEB. 17, 1778	149
57. TREATY OF ALLIANCE WITH FRANCE. FEB. 6, 1778	151
58. THE MASSACHUSETTS BILL OF RIGHTS. 1780	154
59. TREATY OF PEACE BETWEEN THE UNITED STATES AND GREAT BRITAIN. JAN. 14, 1783	159
60. THE CALL OF THE PHILADELPHIA CONVENTION	163
61. SHAY'S REBELLION. 1786	166

62. THE ORDINANCE OF 1787. JULY 13, 1787	170
63. DEFECTS IN THE ARTICLES OF CONFEDERATION. ALEX- ANDER HAMILTON. DEC. 1787	176
64. THE CONSTITUTION OF THE UNITED STATES	179
65. THE JUDICIARY ACT OF 1789	190
66. THE ESTABLISHMENT OF THE PUBLIC CREDIT. HAMIL- TON. JAN. 9, 1790	194
67. HAMILTON'S REPORT ON THE NATIONAL BANK. DEC. 13, 1790	200
68. THE FIRST TEN AMENDMENTS. NOV. 3, 1791	204
69. PROCLAMATION OF NEUTRALITY. 1793	205
70. JAY'S TREATY. 1794	206
71. TREATY WITH SPAIN. OCT. 27, 1795	214
72. WASHINGTON'S FAREWELL ADDRESS. SEPT. 19, 1796	216
73. THE ELEVENTH AMENDMENT. JAN. 8, 1798	222
74. THE ALIEN ACT. JUNE 25, 1798	222
75. THE SEDITION ACT. JULY 14, 1798	223
76. THE KENTUCKY RESOLUTIONS OF 1798	224
77. THE VIRGINIA RESOLUTIONS OF 1798	227
78. THE KENTUCKY RESOLUTIONS OF 1799	228
79. THE LAND LAW OF 1800	229
80. JEFFERSONIAN PRINCIPLES. FIRST INAUGURAL ADDRESS. MAR. 4, 1801	231
81. REVIVALS. RICHARD M'NEMAR	234
82. MARBURY vs. MADISON. FEB. 24, 1803	236
83. THE LOUISIANA PURCHASE TREATY. APR. 30, 1803	240
84. THE TWELFTH AMENDMENT. SEPT. 25, 1804	242
85. EDUCATION IN NORTH CAROLINA	243
86. THE BERLIN DECREE. NOV. 21, 1806	247
87. THE ORDER IN COUNCIL OF JAN. 7, 1807	249
88. THE ORDER IN COUNCIL OF NOV. 11, 1807	250
89. THE MILAN DECREE. DEC. 17, 1807	252
90. THE EMBARGO ACT. DEC. 22, 1807	253
91. ACT PROHIBITING THE AFRICAN SLAVE TRADE. JAN. 1, 1808	254
92. THE NON-INTERCOURSE ACT. MAR. 1, 1809	256
93. THE COPPERMINE PRISON. KENDALL	258
94. THE RAMBOUILLET DECREE. MAR. 23, 1810	260
95. MACON'S BILL, NO. 2. MAY 1, 1810	261
96. THE CADORE LETTER. AUG. 5, 1810	262
97. THE DECLARATION OF WAR. JUNE 18, 1812	263
98. THE TREATY OF GHENT. DEC. 24, 1814	264

99. THE SECOND BANK OF THE UNITED STATES. APR. 10, 1816	268
100. THE WESTWARD MOVEMENT. BIRBECK. 1817	272
101. MADISON'S VETO OF THE BONUS BILL. MAR. 3, 1817	278
102. THE RUSH-BAGOT AGREEMENT. 1818	280
103. THE OREGON CONVENTION OF 1818. OCT. 20, 1818	280
104. THE FLORIDA CESSION. FEB. 22, 1819,	281
105. McCULLOUGH vs. MARYLAND. MAR. 1819	284
106. THE MISSOURI COMPROMISE	287
THE TALLMADGE AMENDMENT. FEB. 15, 1819	288
THE THOMAS AMENDMENT. FEB. 3, 1820	288
THE MISSOURI ENABLING ACT. MAR. 1820	289
THE CONSTITUTION OF MISSOURI. 1820	290
THE ADMISSION OF MISSOURI. MAR. 2, 1821	291
107. THE SETTLEMENT OF TEXAS. 1820-24	292
108. THE LAND LAW OF 1820. APR. 24, 1820	297
109. THE RUSSIAN UKASE. SEPT. 7, 1821	298
110. GEORGE CANNING AND THE MONROE DOCTRINE. AUG. 20, 1823	300
111. THOMAS JEFFERSON'S OPINION OF CANNING'S PROPOSAL. OCT. 24, 1823	302
112. THE MONROE DOCTRINE. DEC. 2, 1823	303
113. THE RUSSIAN TREATY. JAN. 12, 1825	306
114. THE PANAMA CONGRESS. 1825	307
115. THE NEW YORK PENAL SYSTEM. 1826	309
116. THE SOUTH CAROLINA EXPOSITION AND PROTEST OF 1828. CALHOUN	311
117. THE INAUGURATION OF JACKSON—PARTON	318
118. THE POOR AND EDUCATION. 1830	319
119. THE JEFFERSON BANQUET TOAST. VAN BUREN. APR. 13, 1830	323
120. GARRISONIAN ABOLITIONISM. THE LIBERATOR. JAN. 1, 1831	325
121. JACKSON'S VETO OF THE BANK RECHARTER. JULY 10, 1832	328
122. THE NULLIFICATION ORDINANCE OF SOUTH CAROLINA. NOV. 24, 1832	333
123. JACKSON'S PROCLAMATION TO SOUTH CAROLINA. DEC. 10, 1832	335
124. THE FORCE BILL. MAR. 2, 1833	342
125. THE COMPROMISE TARIFF OF 1833. MAR. 2, 1833	344
126. THE SPECIE CIRCULAR. JULY 11, 1836	345
127. JACKSON'S VIEWS ON TEXAS. DEC. 21, 1836	346

128. THE RECOGNITION OF TEXAN INDEPENDENCE BY THE UNITED STATES. MAR. 3, 1837	347
129. THE ORIGIN OF THE SUBTREASURY. SEPT. 4, 1837	348
130. EDUCATION IN MASSACHUSETTS. MANN. JAN. 1, 1838	352
131. THE PRE-EMPTION ACT OF 1841. SEPT. 4, 1841	359
132. THE WEBSTER-ASHBURTON TREATY OF 1842. AUG. 9, 1842	361
133. TREATMENT OF THE INSANE IN MASSACHUSETTS. DIX. 1843	364
134. THE ANNEXATION OF TEXAS. MAR. 1, 1845	367
135. THE OREGON TREATY. JUNE 15, 1846	369
136. THE WILMOT PROVISIO. CONGRESSIONAL GLOBE. AUG. 8, 1846	370
137. THE WHIGS AND THE MEXICAN WAR. CONGRESSIONAL GLOBE. FEB. 11-12, 1847	373
138. SOUTHERN DEFENSES OF SLAVERY. CONGRESSIONAL GLOBE. FEB. 11, 1847	380
139. THE TREATY OF GUADALUPE HIDALGO. FEB. 2, 1848	384
140. THE SOUTH AND THE WILMOT PROVISIO. CONGRESSIONAL GLOBE. DEC. 13, 1849	386
141. CALHOUN'S LAST SPEECH. MAR. 4, 1850	389
142. WEBSTER'S SEVENTH OF MARCH SPEECH. MAR. 7, 1850 ..	395
143. THE CLAYTON-BULWER TREATY. APR. 19, 1850	403
144. CLAY'S COMPROMISE REPORT. MAY 8, 1850	406
145. THE NASHVILLE CONVENTION. 1850	413
146. THE TEXAS AND NEW MEXICO ACT. SEPT. 9, 1850	416
147. UTAH TERRITORY ACT. SEPT. 9, 1850	417
148. THE FUGITIVE SLAVE LAW. SEPT. 18, 1850	418
149. ABOLITION OF THE SLAVE TRADE IN THE DISTRICT OF COLUMBIA. SEPT. 20, 1850	421
150. THE GEORGIA PLATFORM. DEC. 1850	422
151. THE GADSDEN TREATY. DEC. 30, 1853	423
152. THE KANSAS-NEBRASKA ACT. MAY 30, 1854	424
153. THE EMIGRANT AID SOCIETY. THAYER. JUNE 26, 1856 ..	427
154. SOUTHERN MIGRATION TO KANSAS. 1856	430
155. THE KNOW NOTHINGS. WHITNEY. 1856	431
156. THE REPUBLICAN PLATFORM OF 1856	435
157. THE LECOMPTON CONSTITUTION. SEPT. 4, 1857	437
158. THE ENGLISH ACT. MAY 4, 1858	440
159. THE FREEPORT HERESY. LINCOLN AND DOUGLAS. AUG. 27, 1858	442
160. SEWARD'S "IRREPRESSIBLE CONFLICT" SPEECH. OCT. 25, 1858	444

161. LINCOLN'S COOPER INSTITUTE SPEECH. FEB. 27, 1860	448
162. THE CHARLESTON CONVENTION. HALSTEAD. 1860	453
163. THE CHICAGO CONVENTION. HALSTEAD. 1860	465
164. BUCHANAN'S VETO OF THE HOMESTEAD BILL. JUNE 22, 1860	479
165. SOUTH CAROLINA ORDINANCE OF SECESSION	481
166. REPORT OF THE PEACE CONGRESS. 1861	482
167. LINCOLN'S FIRST INAUGURAL. MAR. 4, 1861	485
168. THE CONFEDERATE CONSTITUTION. MAR. 11, 1861	488
169. PRESIDENT LINCOLN'S CALL TO ARMS. APR. 15, 1861	494
170. THE CONFEDERACY'S CALL TO ARMS. MAY 6, 1861	495
171. NEGROES AS CONTRABAND. BUTLER. MAY, 1861	497
172. CAUSES AND PURPOSES OF THE WAR. CRITTENDEN. JULY 25, 1861	498
173. THE FIRST LEGAL TENDER ACT. FEB. 25, 1862	499
174. THE HOMESTEAD ACT. MAY 20, 1862	501
175. THE SECOND CONFISCATION ACT. JULY 17, 1862	502
176. THE EMANCIPATION PROCLAMATION. SEPT. 22, 1862	506
177. THE DRAFT ACT. MAR. 3, 1863	507
178. THE GETTYSBURG ADDRESS. NOV. 19, 1863	510
179. LINCOLN'S AMNESTY PROCLAMATION. DEC. 8, 1863	511
180. THE NATIONAL BANK ACT. FEB. 25, 1863	514
181. THE WADE-DAVIS BILL. CONGRESSIONAL GLOBE. JULY 1, 1864	519
182. LINCOLN'S OBJECTIONS TO THE WADE-DAVIS BILL. JULY 8, 1864	521
183. THE DEMOCRATIC PLATFORM OF 1864. AUG. 29, 1864	522
184. LINCOLN'S SECOND INAUGURAL. MAR. 4, 1865	523
185. JOHNSON'S AMNESTY PROCLAMATION. MAY 29, 1865	525
186. THE THIRTEENTH AMENDMENT. DEC. 18, 1865	528
187. THE CIVIL RIGHTS ACT. APR. 9, 1866	528
188. THE FRENCH AND MEXICO. SEWARD. APR. 16, 1866	530
189. THE TENURE OF OFFICE ACT. MAR. 2, 1867	532
190. RECONSTRUCTION ACT OF MAR. 2, 1867	533
191. THE PURCHASE OF ALASKA. MAR. 30, 1867	535
192. THE REMOVAL OF STANTON. JOHNSON. FEB. 22, 1868	537
193. ARTICLES OF IMPEACHMENT AGAINST JOHNSON. FEB.- MAR. 1868	540
194. THE FOURTEENTH AMENDMENT. JUNE 28, 1868	546
195. THE FIFTEENTH AMENDMENT. MAR. 30, 1870	547
196. THE CIVIL SERVICE COMMISSION OF 1871. MAR. 3, 1871 . .	547
197. THE FOUNDING OF THE GRANGE. 1867	548

198. THE GENEVA ARBITRATION. SEPT. 14, 1872	552
199. THE "CRIME OF 1873." FEB. 12, 1873	558
200. THE RESUMPTION OF SPECIE PAYMENTS. JAN. 14, 1875 ..	560
201. THE MULLIGAN LETTERS. BLAINE'S SPEECH. JUNE 5, 1876	561
202. THE BLAND-ALLISON ACT. FEB. 28, 1878	568
203. THE CHINESE EXCLUSION ACT. MAY 6, 1882	568
204. THE PENDLETON ACT. JAN. 16, 1883	571
205. BIMETALLISM UNDER DIFFICULTIES. CLEVELAND. DEC. 8, 1885	574
206. THE INTERSTATE COMMERCE COMMISSION. FEB. 4, 1887 .	577
207. THE SHERMAN ANTI-TRUST LAW. JULY 2, 1890	584
208. SHERMAN SILVER PURCHASE ACT. JULY 14, 1890	585
209. THE FARMERS' ALLIANCE. 1890	586
210. THE CONSERVATION ACT. MAR. 3, 1891	593
211. THE VENEZUELA QUESTION	594
EXTRACT FROM CLEVELAND'S MESSAGE. DEC. 9, 1891	594
OLNEY'S LETTER ON VENEZUELA. JULY 20, 1895	595
LORD SALISBURY'S REPLY. NOV. 26, 1895	598
CLEVELAND'S MESSAGE ON VENEZUELA. DEC. 17, 1895 ..	600
212. THE REPEAL OF THE SHERMAN SILVER PURCHASE ACT. NOV. 1, 1893	601
213. REPUBLICAN PLATFORM OF 1896. JUNE 17, 1896	602
214. DEMOCRATIC PLATFORM OF 1896. JULY 8, 1896	604
215. THE POPULIST PLATFORM OF 1896	605
216. THE DE LOME LETTER. DEC. 1897	609
217. SENATOR PROCTOR'S SPEECH ON CUBA. MAR. 17, 1898	612
218. McKINLEY'S WAR SPEECH. APR. 11, 1898	617
219. RECOGNITION OF THE INDEPENDENCE OF CUBA. APR. 20, 1898	620
220. ANNEXATION OF HAWAII. JULY 7, 1898	621
221. THE TREATY OF PEACE WITH SPAIN. DEC. 10, 1898	623
222. THE OPEN DOOR NEGOTIATION. 1899	626
223. THE GOLD STANDARD ACT OF 1900. MAR. 14, 1900	630
224. HAY'S SECOND "OPEN DOOR" NOTE. JULY 3, 1900	631
225. THE PLATT AMENDMENT. MAR. 2, 1901	632
226. THE HAY-PAUNCEFOTE TREATY. NOV. 18, 1901	634
227. ROOSEVELT ON THE TRUSTS. 1901	637
228. ROOSEVELT AND CONSERVATION. 1901	639
229. INITIATIVE AND REFERENDUM. EXTRACT FROM THE OREGON CONSTITUTION. JUNE 2, 1902	643
230. PACIFICATION OF THE PHILIPPINES. JULY 4, 1902	644

231. THE PANAMA REVOLUTION. 1903	646
232. THE PANAMA CANAL TREATY. NOV. 18, 1903	655
233. THE NORTHERN SECURITIES DECISION. MAR. 14, 1904 ...	660
234. ROOSEVELT'S COROLLARY TO THE MONROE DOCTRINE. DEC. 6, 1904	665
235. RETURN OF EXCESS INDEMNITY TO CHINA. 1907	666
236. THE RECALL. EXTRACT FROM THE OREGON CONSTITU- TION. JUNE 1, 1908	668
237. LODGE AMENDMENT TO THE MONROE DOCTRINE. AUG. 2, 1912	669
238. THE SIXTEENTH AMENDMENT. FEB. 25, 1913	670
239. THE SEVENTEENTH AMENDMENT. MAY 31, 1913	670
240. NEWLANDS CONCILIATION ACT. JULY 15, 1913	670
241. THE FEDERAL RESERVE ACT. DEC. 23, 1913	673
242. PROCLAMATION OF NEUTRALITY. AUG. 4, 1914	679
243. THE TRADE COMMISSION ACT. SEPT. 26, 1914	683
244. CLAYTON ANTI-TRUST. OCT. 15, 1914	686
245. THE FIRST LUSITANIA NOTE. MAY 13, 1915	689
246. OCCUPATION OF HAITI. MAY 3, 1916	693
247. THE GERMAN SUBMARINE PLEDGE. MAY 4, 1916	696
248. ORGANIC ACT FOR THE PHILIPPINE ISLANDS. AUG. 29, 1916	700
249. ADAMSON EIGHT HOUR LAW. SEPT. 5, 1916	706
250. ORGANIC ACT OF PORTO RICO. MAR. 2, 1917	707
251. THE DECLARATION OF WAR AGAINST GERMANY. APR. 6, 1917	712
252. LOANS TO THE ENTENTE. APR. 24, 1917	713
253. THE SELECTIVE SERVICE ACT. MAY 18, 1917	714
254. THE ESPIONAGE ACT. JUNE 15, 1917	719
255. THE LEVER ACT. AUG. 10, 1917	724
256. THE FOURTEEN POINTS. JUNE 8, 1918	729
257. RAILWAY ADMINISTRATION ACT. MAR. 21, 1918	732
258. AMENDMENT TO THE ESPIONAGE ACT. MAY 16, 1918 ...	735
259. THE OVERMAN ACT. MAY 20, 1918	737
260. THE MAN POWER ACT. AUG. 31, 1918	739
261. WILSON'S ARMISTICE NOTES. OCT.-NOV. 1918	740
262. CONSTITUTION OF THE A. F. OF L. 1918-1919	745
263. THE INDUSTRIAL WORKERS OF THE WORLD	752
264. THE EIGHTEENTH AMENDMENT	754
265. THE VOLSTEAD ACT. OCT. 28, 1919	754
266. THE NINETEENTH AMENDMENT. AUG. 26, 1920	758
267. THE ESCH-CUMMINS ACT. FEB. 28, 1920	759

268. THE PEACE RESOLUTIONS OF FEB.-MAR. 1920	768
269. THE BUDGET SYSTEM. JUNE 10, 1921	773
270. THE FOUR POWER TREATY. AUG. 21, 1923	776
271. McNARY-HAUGEN BILL	783
272. COOLIDGE'S VETO OF THE McNARY-HAUGEN BILL	790
273. DEMOCRATIC PLATFORM OF 1932	795
274. THE TWENTIETH AMENDMENT. FEB. 6, 1933	800
275. THE BANK HOLIDAY. MAR. 6, 1933	801
276. AGRICULTURAL ADJUSTMENT ACT. MAY 12, 1933	805
277. TENNESSEE VALLEY AUTHORITY. MAY 18, 1933	814
278. NATIONAL INDUSTRIAL RECOVERY ACT. JUNE 16, 1933 ...	821
279. TWENTY-FIRST AMENDMENT. DEC. 5, 1933	828
280. PROCLAMATION FIXING THE WEIGHT OF THE GOLD DOLLAR. JAN. 31, 1934	829
281. SILVER PURCHASE ACT OF 1934. JUNE 19, 1934	832
282. NATIONAL LABOR RELATIONS BOARD. JULY 5, 1935	835
283. SOCIAL SECURITY ACT. AUG. 14, 1935	838
284. F. D. ROOSEVELT'S QUARANTINING WAR SPEECH. OCT. 5, 1937	845
285. FAIR LABOR STANDARDS ACT OF 1938. JUNE 25, 1938	849
286. THE CONSTITUTION OF THE CONGRESS OF INDUSTRIAL ORGANIZATIONS (C.I.O.). NOV. 18, 1938	854
287. NEUTRALITY LAW OF 1939. NOV 4, 1939	860
288. LATIN AMERICAN POLICY. JAN. 4, 1940	867
INDEX	875

1. ADVANTAGES OF COLONIZATION

The Discourse on Western Planting from which the following extract is taken was written in 1584 for Sir Walter Raleigh by Richard Hakluyt, the collector of geographical information and tales of discovery. It marshals the reasons that might incline Queen Elizabeth's government to support a program of colonization in America.

Maine Historical Society Collections, Second Series, Documentary History, Vol. 2, pp. 7-161. Cambridge, 1877.

THAT this Western discoverie will be greatly for thinline of the gospel of Christe, whereunto the princes of the Reformed Religion are chiefly bounde, amongst whome her Majestie ys principall.

SEINGE that the people of that parte of AMERICA from 30. degrees in Florida northwarde unto 63. degrees (which ys yet in no Christian princes actuall possession) are idolaters; and that those which Stephen Gomes broughte from the coaste of NORUMBEGA in the yere 1524. worshipped the sonne, the moone, and the starres, and used other idolatrie, .. and that those of Canada and Hochelaga in 48. and 50. degrees worships a spirite which they call Cudruaigny, .. it remayneth to be thoroughly weyed and considered by what meanes and by whome this moste godly and Christian work may be performed of enlarginge the glorious gospel of Christe, and reducinge of infinite multitudes of these simple people that are in error into the righte and perfecte way of their saluation. .. Unto the prince and people that shalbe the occasion of this worthe worke, and shall open their cofers to the furtheraunce of this most godly enterprise, God shall open the bottomles treasures of his riches, and fill them with abundaunce of his hidden blessings; .. Nowe therefore I truste the time ys at hande when by her Majesties forwardnes in this enterprise, not only this objection and suche like shalbe answered by our frutefull labor in Godds harvest amongst the infidells, but also many inconveniences and strifes amongst ourselves at home, in matters of ceremonies, shalbe ended. .. THE NEXTE thinge ys that nowe I declare unto you the comodities of this newe western discoverie, and what marchandize are there to be had, and from thence to be expected; wherein firste you are to have regarde unto the scituation of the places which are left for

us to be possessed. The contries therefore of AMERICA where unto we have just title, as beinge firste discovered by Sebastian Cabote, at the coste of that prudente prince Kinge Henry the Seaventh, from Florida northwarde to 67. degrees, (and not yet in any Chrestian princes actuall possession,) beinge aunswerable in clymate to Barbary, Egipte, Siria, Persia, Turky, Greece, all the islandes of the Levant sea, Italie, Spaine, Portingale, Fraunce, Flaunders, Highe Almayne, Denmarke, Estland, Poland, and Muscovye, may presently or within a shorte space afforde unto us, for little or nothings, and with moche more safetie, eyther all or a greate parte of the comodities which the aforesaid contries do yelde us at a very dere hande and with manifolde daungers.

Firste, therefore, to begyn at the southe from 30. degrees, and to quote unto the leafe and page of the printed voyadges of those which personally have with diligence searched and viewed these contries. John Ribault writeth thus, in the firste leafe of his discourse, .. Wee entred (saith he) and viewed the contrie which is the fairest, frute-fullest, and pleasauntest of all the worlde, aboundinge in honye, waxe, venison, wilde fowle, fforrestes, .. with also the fairest vines in all the worlde, with grapes accordinge... And the sighte of the faire meadowes is a pleasure not able to be expressed with tongue, full of herons, .. and all other kinde of small birdes, with hartes, .. and all other kynd of wilde beastes... They shewed unto us by signes that they had in the lande golde and silver and copper, .. Also turqueses and greate aboundaunce of perles, which ... they tooke oute of oysters, .. And wee have perceaved that there be as many and as greate perles founde there as in any countrie in the worlde... The scituation is under 30. degrees, a good clymate, healthfull, and of goodd temperature, marvelous pleasaunte, the people goodd and of a gentle and amyable nature... It is a place wonderfull fertile and of stronge scituation, the grounde fatt, so that it is like that it would bringe forth the wheate and all other corne twice a yere. . .

IT IS well worthe the observation to see and consider what the like voyadges of discoverye and plantinge in the Easte and Weste Indies hath wroughte in the kingdomes of Portingale and Spayne, .. by these, their newe discoveries, they have so many honest wayes to set them on worke, as they rather wante men then meanes to ymploye them. But wee, for all the statutes that hitherto can be devised, .. cannot deliver our commonwealthe from multitudes of loyterers and idle vagabondes. Truthe it is, that throughe our longe peace and seldome sicknes (twoo singuler blessings of Almightye God) wee are growen more populous than ever heretofore; so that nowe there are of every arte and science

so many, that they can hardly lyve one by another, nay rather they are readie to eate upp one another; .. and often fall to pilferinge and thevinge and other lewdnes, .. yf this voyadge were put in execution, these pety thieves mighte be condempned for certen yerres in the westerne partes, especially in Newefounde lande, in sawinge and felling of tymber... in burninge of the firres and pine trees to make pitche, tarr, rosen, and sope ashes; in beatinge and workinge of hempe for cordage; and, in the more southerne partes, in settinge them to worke in mynes... in plantinge of suger canes... in dressinge of vines whereof there is greate aboundaunce of wyne. . .

In somme, this enterpryce will mynister matter for all sortes and states of men to worke upon; .. an Englishe gentleman, Capitaine Muffett, whoe is now in Fraunce, tolde... that when he was in Spaine, prisoner, not longe since, he hearde the threasurer of the West Indies say, that there was no suche way to hinder his master, as to plante upon the coaste nere unto Florida... And entringe into the consideration of the way how this Phillippe may be abased, I meane firste to begynne with the West Indies, as there to laye a chefe foundation for his overthrowe. And like as the foundation of the strongest holde undermynded and removed, the mightiest and strongest walles fall flatt to the earthe; so this prince, spoiled or intercepted for a while of his treasure, occasion by lacke of the same is geven that all his territories in Europe oute of Spaine slide from him, and the Moores enter into Spaine it selfe, and the people revolte in every forrein territorie of his, and cutt the throates of the proude hatefull Spaniardes, their governours... And therefore wee are to understande that Phillippe rather governeth in the West Indies by opinion, then by mighte; .. as in truthe the Spaniarde ys very weake there... If you touche him in the Indies, you touche the apple of his eye; for take away his treasure, which is *neruus belli*, and which he hath almoste oute of his West Indies, his olde bandes of souldiers will soone be dissolved, his purposes defeated, his power and strengthe diminished, his pride abated, and his tyranie utterly suppressed... A BREFE collection of certaine reasons to induce her Majestie and the state to take in hande the westerne voyadge and the plantinge there. . .

2. The passage thither and home is neither to longe nor to shorte, but easie, and to be made twise in the yere.

3. The passage cutteth not nere the trade of any prince, nor nere any of their contries or territories, and is a safe passage, and not easie to be annoyed by prince or potentate whatsoever.

4. The passage is to be perfourmed at all times of the yere. . .

6. This enterprise may staye the Spanishe Kinge from flowinge

over all the face of that waste firme of America, . . Howe easie a matter may yt be to this realme, swarming at this day with valiant youthes, . . to be lordes of all those sees, and to spoile Phillipps Indian navye, and to deprive him of yerely passage of his treasure into Europe, and consequently to abate the pride of Spaine and of the supporter of the greate Antechriste of Rome, and to pull him downe in equallitie to his neighbour princes, and consequently to cutt of the common mischefes that come to all Europe by the peculiar aboundaunce of his Indian treasure, and thiss withoute difficultie. . .

16. Wee shall be plantinge there inlarge the glory of the gospell, and from England plante sincere religion, and provide a safe and a sure place to receave people from all partes of the worlde that are forced to flee for the truthe of Gods worde. . .

20. Many men of excellent wittes and of divers singuler giftes, overthrowen by suertshippe, by sea, or by some folly of youthe, that are not able to live in England, may there by raised againe, and doe their contrie goodd service; . .

21. Many souldiers and servitours, in the ende of the warres, . . may there be unladen, to the commin profite and quiet of this realme, . .

22. The frye of the wandringe beggars of England, that growe upp ydly, and hurtefull and burdenous to this realme, may there be unladen, better bredd upp, and may people waste contries to the home and forreine benefite, and to their owne more happy state. . .

2. THE VIRGINIA CHARTERS

Under the successive Virginia charters, or royal grants of James I, was established the first successful English colony within the present limits of the United States. The extracts from the charters indicate the steps by which control of the enterprise was transferred from the Crown to an incorporated company. The extract from the Charter of 1609 shows the basis of Virginia's later claims to indefinite extent northwestward. The charters respectively passed the seals April 10/20, 1606, May 23/June 2, 1609, March 12/22, 1611-12.

B. P. Poore, The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the United States. Vol. 2, pp. 1888-1905. Washington, 1877.

The First Charter of Virginia — 1606

JAMES, by the Grace of God, King of *England, Scotland, France and Ireland*, Defender of the Faith, &c. WHEREAS our loving and well-

disposed Subjects, Sir *Thomas Gates*, and Sir *George Somers*, Knights, *Richard Hackluit*, Clerk, Prebendary of *Westminster*, and *Edward-Maria Wingfield*, *Thomas Hanham*, and *Raleigh Gilbert*, Esqrs. *William Parker*, and *George Popham*, Gentlemen, and divers others of our loving Subjects, have been humble Suitors unto us, that We would vouchsafe unto them our Licence, to make Habitation, Plantation, and to deduce a colony of sundry of our People into that part of *America* commonly called VIRGINIA, and other parts and Territories in *America*, either appertaining unto us, or which are not now actually possessed by any *Christian* Prince or People, situate, lying, and being all along the Sea Coasts, between four and thirty Degrees of *Northerly* Latitude from the Equinoctial Line, and five and forty Degrees of the same Latitude, and in the main Land between the same four and thirty and five and forty Degrees, and of the Islands thereunto adjacent, or within one hundred Miles of the Coast thereof;

And to that End, and for the more speedy Accomplishment of their said intended Plantation and Habitation there, are desirous to divide themselves into two several Colonies and Companies; the one consisting of certain Knights, Gentlemen, Merchants, and other Adventurers, of our City of *London* and elsewhere, . . And the other consisting of sundry Knights, Gentlemen, Merchants, and other Adventurers, of our Cities of *Bristol* and *Exeter*, and of our Town of *Plimouth*, and of other Places. . .

We, . . DO, by these our Letters Patents, graciously accept of, and agree to, their humble and well-intended Desires;

And do therefore, for Us, our Heirs, and Successors, GRANT and agree, that the said Sir *Thomas Gates*, Sir *George Somers*, *Richard Hackluit*, and *Edward-Maria Wingfield*, Adventurers of and for our City of *London*, and all such others, as are, or shall be, joined unto them of that Colony, shall be called the *first Colony*; and they shall and may begin their said first Plantation and Habitation, at any Place upon the said Coast of *Virginia* or *America*, where they shall think fit and convenient, between the said four and thirty and one and forty Degrees of the said Latitude; And that they shall have all the Lands, Woods, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments, whatsoever, from the said first Seat of their Plantation and Habitation by the Space of fifty Miles of *English* Statute Measure, all along the said Coast of *Virginia* and *America*, towards the *West* and *Southwest*, as the Coast lyeth, . . And also for the space of fifty like *English* Miles, all alongst the said Coasts of *Virginia* and *America*, towards the *East* and *Northeast*, or towards the *North*, as the Coast lyeth, together with all

the Islands within one hundred Miles, directly over against the said Sea Coast; And also . . . directly into the main Land by the Space of one hundred like *English* Miles; And . . . may inhabit and remain there; and . . . may also build and fortify within any the same, for their better Safeguard and Defence, . . . no other of our Subjects shall be permitted . . . to plant . . . behind, . . . them, towards the main Land, without the Express License or Consent of the Council of that Colony, thereunto in Writing first had and obtained.

And we do likewise, for Us, our Heirs, and Successors, by these Presents, GRANT and agree, that the said *Thomas Hanham*, and *Raleigh Gilbert*, *William Parker*, and *George Popham*, and all others of the Town of *Plimouth* in the County of *Devon*, or elsewhere, which are, or shall be, joined unto them of that Colony, shall be called the *second Colony*; And that they shall and may begin their said Plantation and Seat of their first Abode and Habitation, at any Place upon the said Coast of *Virginia* and *America*, where they shall think fit and convenient, between eight and thirty Degrees of the said Latitude, and five and forty Degrees of the same Latitude; . .

Provided always, and our Will and Pleasure herein is, that the Plantation and Habitation of such of the said Colonies, as shall last plant themselves, as aforesaid, shall not be made within one hundred like *English* Miles of the other of them, that first began to make their Plantation, as aforesaid.

And we do also ordain, establish, and agree, for Us, our Heirs, and Successors, that each of the said Colonies shall have a Council, which shall govern and order all Matters and Causes, which shall arise, grow, or happen, to or within the same several Colonies, according to such Laws, Ordinances, and Instructions, as shall be, in that behalf, given and signed with Our Hand or Sign Manual, and pass under the Privy Seal of our Realm of *England*; Each of which Councils shall consist of thirteen Persons, to be ordained, made, and removed, from time to time, according as shall be directed and comprised in the same instructions; . .

And that also there shall be a Council, established here in *England*, which shall, in like Manner, consist of thirteen Persons, to be, for that Purpose, appointed by Us, our Heirs and Successors, which shall be called our *Council of Virginia*; And shall, from time to time, have the superior Managing and Direction, only of and for all Matters that shall or may concern the Government, as well of the said several Colonies, as of and for any other Part or Place, within the aforesaid Precincts of four and thirty and five and forty Degrees abovementioned; . .

And moreover, we do GRANT . . . that the said several Councils of and for the said several Colonies, . . . may . . . mine . . . Gold, Silver, and Copper, . . . YIELDING therefore to Us, our Heirs and Successors, the fifth Part only of all the same Gold and Silver, and the fifteenth Part of all the same Copper, . . .

And that they shall, or lawfully may, establish and cause to be made a Coin, to pass current there between the people of those several Colonies, for the more Ease of Traffick and Bargaining between and amongst them and the Natives there, of such Metal, and in such Manner and Form, as the said several Councils there shall limit and appoint. . .

Moreover, we do, by these Presents, for Us, our Heirs, and Successors, GIVE AND GRANT Licence unto the said Sir *Thomas Gates* . . . and to every of the said Colonies, that they, and every of them . . . may, from time to time, . . . for their several Defences . . . expulse . . . and resist, . . . by all Ways and Means whatsoever, all . . . such . . . Persons, as without the especial Licence of the said . . . Colonies . . . shall attempt to inhabit within the . . . Limits of the said several Colonies . . . or that shall . . . attempt, at any time hereafter, the Hurt . . . of the said several Colonies or Plantations:

Giving and granting, by these Presents, unto the said Sir *Thomas Gates*, . . . and their Associates of the said first Colony, and unto the said *Thomas Hanham*, . . . and their Associates of the said second Colony . . . Power and Authority to take . . . every Person . . . with their Ships, Vessels, Goods, and other Furniture, which shall be found trafficking, into any . . . Place, within the Limits . . . of the . . . Colonies . . . not being of the same Colony, until such time, as they, being of any Realms, or Dominions under our Obedience, shall pay . . . to the Hands of the Treasurer of that Colony, within whose Limits . . . they shall so traffick, two and a half upon every Hundred, of any thing, so by them trafficked, bought, or sold; And being Strangers, and not Subjects under our Obedience, until they shall pay five upon every Hundred, of such Wares and Merchandises, as they shall traffick. . . WHICH Sums of Money, or Benefit, as aforesaid, for and during the Space of one and twenty Years, next ensuing the Date hereof, shall be wholly employed to the Use, Benefit, and Behoof of the said several Plantations, where such Traffick shall be made; And after the said one and twenty Years ended, the same shall be taken to the Use of Us, our Heires, and Successors. . .

Also we do . . . DECLARE, by these Presents, that all . . . the Persons being our Subjects, which shall dwell . . . within . . . any of the said several Colonies . . . and . . . their children, which shall happen to be

born within any of the Limits . . . of the . . . Colonies and Plantations, shall HAVE and enjoy all Liberties, Franchises, and Immunities . . . as if they had been abiding and born, within this our Realm of *England*, or any other of our said Dominions. . .

And finally, we do . . . GRANT . . . to . . . the said Sir *Thomas Gates*, Sir *George Somers*, . . and all others of the said first colony . . . all the Lands, Tenements, and Hereditaments, which shall be within the Precincts limited for that Colony, as is aforesaid, TO BE HOLDEN of US, our heirs and Successors, as of our Manor at *East-Greenwich*, in the County of *Kent*, in free and common Soccage only, and not in Capite:

And do in like Manner, Grant and Agree, for Us . . . to . . . the said *Thomas Hanham*, *Ralegh Gilbert*, . . and all others of the said second Colony . . . all the Lands, Tenements, and Hereditaments, which shall be within the Precincts limited for that Colony, as is aforesaid, TO BE HOLDEN of US, our Heires, and Successors, as of our Manor of *East-Greenwich*, in the County of *Kent*, in free and common Soccage only, and not in Capite.

The Second Charter of Virginia — 1609

JAMES, by the Grace of God, King of *England*, *Scotland*, *France*, and *Ireland*, Defender of the Faith, &c. To all, to whom these Presents shall come, Greeting . . .

We greatly affecting the effectual Prosecution and happy success of the said Plantation . . . do . . . GIVE, GRANT, and CONFIRM, to our trusty and well beloved Subjects, Robert, Earl of Salisbury, Thomas, Earl of Suffolk . . . Sir Francis Bacon, Knt. . . Richard Hackluit, Minister . . . the Company of Mercers . . . and to such . . . as they . . . shall hereafter admit to be joined with them . . . that they and their Successors shall be known, called, and incorporated by the Name of *The Treasurer and Company of Adventurers and Planters of the City of London, for the first Colony in Virginia*. . . And we do also . . . give, grant and confirm, unto the said Treasurer and Company . . . all those Lands, . . . situate, . . . in that Part of *America*, called *Virginia*, from the Point of Land, called Cape or *Point Comfort*, all along the Sea Coast to the Northward, two hundred miles, and from the said Point of *Cape Comfort*, all along the Sea Coast to the Southward, two hundred Miles, and all that Space and Circuit of Land, lying from the Sea Coast of the Precinct aforesaid, up into the Land throughout from Sea to Sea, West and Northwest; And also all the Islands lying within one hundred Miles along the Coast of both Seas of the Precinct

aforesaid; .. TO BE HOLDEN of US, our Heirs and Successors, as of our Manor of *East-Greenwich*, in free and common Soccage, and not in Capite; YIELDING and PAYING therefore, to Us, our Heirs and Successors, the fifth Part only of all Ore of Gold and Silver, that from Time to Time ... shall be there gotten ... for all Manner of Services ... AND ... we DO ORDAIN, establish and confirm, that there shall be perpetually one COUNCIL here resident, according to the Tenour of our former Letters-Patents; Which Council shall have a Seal for the better Government and Administration of the said Plantation, besides the legal Seal of the Company or Corporation, as in our former Letters-Patents is also expressed. AND further, We ESTABLISH and ORDAIN, That Henry Earl of Southampton, William Earl of Pembroke ... shall be our Council for the said Company of Adventurers and Planters, in Virginia: AND the said Thomas Smith, We DO ORDAIN to be Treasurer of the said Company; which Treasurer shall have Authority to give Order for the Warning of the Council, and summoning the Company to their Courts and Meetings. AND the said Council and Treasurer, or any of them shall be from henceforth nominated, chosen, continued, displaced, changed, altered and supplied, as Death, or other several Occasions shall require, out of the Company of the said Adventurers, by the Voice of the greater part of the said Company and Adventurers, in their Assembly for that Purpose: ..

AND further, of our special Grace, certain Knowledge, and mere Motion, for Us, our Heirs and Successors, we do, by these Presents, GIVE and GRANT full Power and Authority to our said Council here resident, as well at this present time, as hereafter from time to time, to nominate, make, constitute, ordain and confirm, by such Name or Names, Stile or Stiles, as to them shall seem good, And likewise to revoke, discharge, change, and alter, as well all and singular Governors, Officers, and Ministers, which already have been made, as also which hereafter shall be by them thought fit and needful to be made or used for the Government of the said Colony and Plantation: AND also to make, ordain, and establish all Manner of Orders, Laws, Directions, Instructions, Forms and Ceremonies of Government and Magistracy, fit and necessary for and concerning the Government of the said Colony and Plantation; ..

The Third Charter of Virginia — 1612

JAMES, by the Grace of God, King of *England, Scotland, France, and Ireland*, Defender of the Faith; To all to whom these Presents shall come, Greeting. WHEREAS at the humble Suit of divers and sundry

our loving Subjects, . . . We have . . . GIVEN and GRANTED unto them that they and . . . their Successors, for ever, should be one Body Politick, incorporated by the Name of *The Treasurer and Company of Adventurers and Planters of the City of London for the first Colony in Virginia*; . . . and we do hereby ordain and grant by these Presents, that the said Treasurer and Company of Adventurers and Planters aforesaid, shall and may, once every week, or oftener, at their Pleasure, hold, and keep a Court and Assembly for the better Order and Government of the said Plantation, and such Things as shall concern the same; . . . and that nevertheless, for the . . . disposing of Matters . . . such as . . . may . . . concern . . . the . . . general Good of the said Company and Plantation, as namely, the Manner of Government from Time to Time to be used, the ordering and Disposing of the Lands and possessions, and the settling and establishing of a Trade there, or such like, there shall be held and kept every Year, upon the last *Wednesday*, save one, of *Hillary Term, Easter, Trinity, and Michaelmas Terms*, for ever, one great, general, and solemn Assembly, which four Assemblies shall be stiled and called, *The four Great and General Courts of the Council and Company of Adventurers for Virginia*; In all and every of which said Great and General Courts, so assembled, our Will and Pleasure is, and we do, for Us, our Heirs and Successors, for ever, Give and Grant to the said Treasurer and Company, and their Successors for ever, by these Presents, that they, the said Treasurer and Company, or the greater Number of them, so assembled, shall and may have full Power and Authority, from Time to Time, and at all Times hereafter, to elect and chuse discreet Persons, to be of our said Council for the said first Colony in *Virginia*, and to nominate and appoint such Officers as they shall think fit and requisite, for the Government, managing, ordering, and dispatching of the Affairs of the said Company; And shall likewise have full Power and Authority, to ordain and make such Laws and Ordinances, for the Good and Welfare of the said Plantation, as to them from Time to Time, shall be thought requisite and meet: *So always*, as the same be not contrary to the Laws and Statutes of this our Realm of *England*. . .

3. THE MAYFLOWER COMPACT

The Mayflower Compact, adopted by the little Separatist group of exiles who settled Plymouth Colony, is significant as representing the origin of the idea in American history that men can establish government over themselves by mutual consent. In a sense the Compact may

be considered the first of American constitutions. Adopted November 11/12, 1620.

William Bradford of Plimouth Plantation, pp. 109-110. Boston, 1898.

I SHALL a litle returne backe and begine with a combination made by them before they came ashore, being y^e first foundation of their govermente in this place; occasioned partly by y^e discontented & mutinous speeches that some of the strangers amongst them had let fall from them in y^e ship — That when they came a shore they would use their owne libertie; for none had power to comānd them, the patente they had being for Virginia, and not for New-england, which belonged to an other Government, with which y^e Virginia Company had nothing to doe. And partly that shuch an acte by them done (this their condition considered) might be as firme as any patent, and in some respects more sure.

The forme was as followeth.

In y^e name of God, Amen. We whose names are underwriten, the loyall subjects of our dread soveraigne Lord, King James, by y^e grace of God, of Great Britaine, Franc, & Ireland king, defender of y^e faith, &c., haveing undertaken, for y^e glorie of God, and advancemente of y^e Christian faith, and honour of our king & countrie, a voyage to plant y^e first colonie in y^e Northerne parts of Virginia, doe by these presents solemnly & mutually in y^e presence of God, and one of another, covenant & combine our selves together into a civill body politick, for our better ordering & preservation & furtherance of y^e ends aforesaid; and by vertue hearof to enacte, constitute, and frame such just & equall lawes, ordinances, acts, constitutions, & offices, from time to time, as shall be thought most meete & convenient for y^e generall good of y^e Colonie, unto which we promise all due submission and obedience. In witnes whereof we have hereunder subscribed our names at Cap-Codd y^e 11. of November, in y^e year of y^e raigne of our soveraigne lord, King James, of England, France, & Ireland y^e eighteenth, and of Scotland y^e fiftie fourth. An^o: Dom. 1620.

4. THE MASSACHUSETTS BAY CHARTER

March 4/14, 1628/9, Charles I issued the charter from which the following extracts are taken. It was designed to create such an organization as the Virginia Company had been in its later years, — a corporation that from England would establish and govern a colony in New England.

Poore, Federal and State Constitutions, Vol. 1, pp. 932-942.

CHARLES, BY THE GRACE OF GOD, Kinge of England, . . &c.
 TO ALL to whome theis Presents shall come Greeting . . knowe yee
 . . . Wee . . . give and graunte vnto the saide Sir Henry Rosewell, Sir
 John Younge, Sir Richard Saltonstall . . . all that Parte of Newe Eng-
 land in America, which lyes . . . betweene a great River there, comonlie
 called Monomack River, alias Merrimack River, and a certen other
 River there, called Charles River, being in the Bottome of a certen Bay
 there, comonlie called Massachusetts . . . Bay; and also . . . those Landes
 . . . lying within . . . Three Englishe Myles on the South . . . of the . . .
 Charles River, or of any . . . Parte thereof; and also . . . the
 Landes . . . lying . . . within . . . Three Englishe Miles to the south-
 ward of the southermost Parte of the said Baye . . . And also all those
 Landes . . . which lye . . . within . . . Three English Myles to the
 Northward of the saide River, called Monomack, alias Merrymack, . .
 and all Landes . . . lying within the Lymitts aforesaide, North and
 South, in Latitude and Bredth, and in Length and Longitude . . .
 throughout the mayne Landes there, from the Atlantick and Westernne
 Sea and Ocean on the East Parte, to the South Sea on the West Parte . . .
 TO BE HOLDEN of Vs . . . as of our Manor of EastGreenwich in our
 Countie of Kent . . . in free and common Soccage, and not in Capite,
 nor by Knights Service; and also yeilding and paying therefore, to
 Vs . . . the fifte Parte onlie of all Oare of Gould and Silver, which . . .
 shal be there gotten, had or obteyned, for all Services, Exacons, and
 Demaundes whatsoever . . . To the Ende that the Affaires and Buyssi-
 nesses which from tyme to tyme shall . . . arise concerning the saide
 Landes, and the Plantation of the same maie be the better mannaged
 and ordered . . . Wee will and ordeyne, that the saide Sir Henry Rose-
 well, Sir John Young . . . and all such others as shall hereafter be
 admitted and made free of the Company and Society hereafter
 mencoed, shall . . . be . . . one body corporate and politique . . . by the
 Name of the Governor and Company of the Mattachusetts Bay in
 Newe-England . . . by the same Name they and their Successors
 shall . . . be . . . enabled . . . to implead, and to be impleaded, and to
 prosecute . . . all and singuler Suites, Causes Quarrels, and Accons, of
 what kinde or nature soever. And also to . . . acquire, and purchase
 any Landes . . . or any Goodes or Chattels, and the same to . . . sell,
 and dispose of, as . . . any other corporacon or Body politique of the
 same may lawfully doe . . . there shalbe one Governor, one Deputy
 Governor, and eighteene Assistants of the same Company, to be from
 tyme to tyme constituted, elected and chosen out of the Freemen of
 the saide Company, for the tyme being, in such Manner and Forme

as hereafter in theis Presents is expressed, which said Officers shall ap-
plie themselves to take Care for the best disposing and ordering of
the generall buysines and Affaires of, for, and concerning the said
Landes and Premisses hereby mencoed, to be graunted, and the Plan-
tacion thereof, and the Government of the People there... the said
Governor, Deputie Governor, and Assistants of the saide Company, for
the tyme being, shall . . . once every Moneth, or oftener at their
Pleasures . . . keepe a Courte or Assemblie of themselves, for the better
ordering and directing of their Affaires, and that any seaven or more
persons of the Assistants, together with the Governor, or Deputie soe
assembled, shalbe . . . a full and sufficient Courte or Assemblie of the
said Company, for the handling . . . of all . . . Buysinneses . . . touching
or concerning the said Company or Plantacon; and that there shall . . .
be held . . . by the Governor, or Deputie Governor of the said Company,
and seaven or more of the said Assistants for the tyme being, vpon
every last Wednesday in Hillary, Easter, Trinity, and Michas Termes
respectivelie forever, one great generall and solempe assemblie, which
foure generall assemblies shalbe stiled and called the foure greate
and generall Courts of the saide Company; IN all of which saide greate
and generall Courts soe assembled WEE DOE . . . graunte to the said
Governor and Company . . . That the Governor, or in his absence, the
Deputie Governor of the saide Company for the tyme being, and such
of the Assistants and Freemen of the saide Company as shalbe present
. . . whereof the Governör or Deputie Governor and six of the Assist-
ants at the least to be seaven, shall have full Power and authoritie to
choose . . . such . . . others as they . . . shall be willing to accept . . .
to be free of the said Company and Body, and them into the same to
admitt; and to elect and constitute such Officers as they shall thinke
fitt . . . for the ordering . . . of the Affaires of the saide . . . Com-
pany . . . And to make Lawes and Ordinances for the Good and Wel-
fare of the saide Company, and for the Government and ordering of
the saide Landes and Plantacion, and the People inhabiting . . . the
same . . . soe as such Lawes and Ordinances be not contrarie or re-
pugnant to the Lawes and Statuts of this our Realme of England . . .
once in the yeare . . . the last Wednesday in Easter Tearme, yearly,
the Governor, Deputy-Governor, and Assistants of the saide Company
all other officers of the saide Company shalbe in the Generall Court
or Assembly to be held for that Day or Tyme newly chosen for the
Yeare ensuing by such greater parte of the said Company, for the
Tyme being, then as there present, as is aforesaide . . . That it shalbe
lawfull and free for them and their Assignes . . . to . . . transport . . .
into . . . the said Plantacon in Newe England . . . soe many of our

loving Subjects, or any other strangers that will become our loving Subjects... as shall willinglie accompany them in the same Voyages and Plantacon; and also Shipping, Armour, Weapons... Corne, Victualls, and all Manner of Clothing, Implements... Beastes... and all other Things necessarie for the saide Plantacon, and for their Vse and Defence, and for Trade with the People there... and without payeing or yeilding any Custome... either inward or outward, to Vs... by the Space of Seaven Yeares from the Day of the Date of theis Presents... they... shalbe free... from all Taxes, .. and Customes, in Newe England, for the like Space of seaven Yeares, and from all Taxes and Imposicions for the Space of twenty and one Yeares, vpon all Goodes and Merchandizes... either vpon Importacon thither, or Exportacion from thence into our Realme of England, or ... our Domyions by the said Governor and Company... EXCEPT onlie the five Pounds per Centum due for Custome vpon all such Goodes and Merchandizes as after the saide seaven Yeares shalbe expired, shalbe brought or imported into our Realme of England, or any other of our Dominions, according to the auncient Trade of Merchants... AND, further our Will and Pleasure is... That all... Subiects of Vs, .. which shall goe to and inhabite within the saide Landes... and every of their Children... shall have and enjoy all liberties and Immunities of free and naturall Subiects within any of the Domyions of Vs... to all Intents, .. and Purposes whatsoever, as yf they... were borne within the Realme of England... That it shall... be lawfull... for the Governor or Deputie Governor, and such of the Assistants and Freemen of the said Company for the Tyme being as shalbe assembled in any of their generall Courts afore-saide... or the greater Parte of them (whereof the Governor or Deputie Governor, and six of the Assistants to be alwaies seaven)... to make... all Manner of wholesome and reasonable Orders, Lawes, Statutes, and Ordinances... not contrarie to the Lawes of this our Realme of England... AND WEE DOE further... graunt to the said Governor and Company... that all... such Chiefe Comaunders, Captaines, Governors, and other Officers and Ministers, as by the said... Lawes... shalbe from Tyme to Tyme hereafter ymployed either in the Government of the saide Inhabitants and Plantacon, or in the Waye by Sea thither, or from thence... shall... have full and Absolute Power and Authoritie to correct, punishe, pardon, governe, and rule all... as shall... adventure themselves in any Voyage thither or from thence, or that shall... inhabite within the Pre-cincts... of Newe England aforesaid, according to the... Lawes, .. aforesaid... PROVIDED... That theis Presents shall not in any

manner . . . hinder any of our loving subjects whatsoever, to vse and exercise the Trade of Fishing vpon that Coast of New England in America . . . But that they . . . shall have full and free Power . . . to . . . vse their said Trade of Fishing vpon the said Coast . . . where they have byn wont to fishe. . .

5. THE CAMBRIDGE AGREEMENT

August 26/September 5, 1629, a group of Puritan gentlemen agreed, if control of the Massachusetts Bay Corporation were vested in them, to migrate to America, and there make the corporation into the body politic of a Puritan commonwealth.

Thomas Hutchinson, Collection of Original Papers relative to the History of the Colony of Massachusetts-Bay. pp. 25-6. Boston, 1769.

The True Coppie of the Agreement at Cambridge, August 26. 1629.

UPON due consideration of the state of the plantation now in hand for New England, wherein wee (whose names are hereunto subscribed) have engaged ourselves: and having weighed the greatnes of the worke in regard of the consequence, God's glory and the churches good: As also in regard of the difficultyes and discouragements which in all probabilities must be forecast upon the execution of this businesse: Considering withall that this whole adventure growes upon the joint confidence we have in each others fidelity and resolution herein, so as no man of us would have adventured it without assurance of the rest: Now, for the better encouragement of ourselves and others that shall joyne with us in this action, and to the end that every man may without scruple dispose of his estate and afayres as may best fitt his preparation for this voyage, it is fully and faithfully agreed amongst us, and every of us doth hereby freely and sincerely promise and bind himselfe in the word of a christian and in the presence of God who is the searcher of all hearts, that we will so really endeavour the execution of this worke, as by God's assistance we will be ready . . . to embarke for the said plantation by the first of March next, . . . to the end to passe the seas (under God's protection) to inhabite and continue in New England. Provided always, that before the last of September next the whole government together with the patent for the said plantation be first by an order of court legally transferred and established to remain with us and others which shall inhabite upon the said planta-

tion. . . And we do further promise every one for himselfe, that shall fayle to be ready through his own default by the day appointed, to pay for every day's default the sum of 3 *l.* to the use of the rest of the Companie who shall be ready by the same day and time.

This was done by order of court the 29th of August, 1629.

Richard Saltonstall
Tho: Dudley
William Vassall
Nicko: West

Isaack Johnson
John Humfrey
Tho: Sharp
Increase Nowell

John Winthrop
Will: Pinchon
Kellam Browne
William Colbron.

6. THE CHARTER OF MARYLAND

The charter of Maryland was granted by Charles I, June 20/30, 1632. It is typical of the so-called proprietary charters, which transferred to an individual or individuals the right to establish and govern a colony in the New World. Others of the same type were Carolina and Pennsylvania.

CHARLES by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, etc. To all to whom these Presents shall come greeting. . .

KNOW YEE therefore, that Wee favouring the Pious, and Noble purpose of the said Barons of Baltemore . . . doe give, grant and confirme unto the said Cecilius, now Baron of Baltemore, his heires and Assignes, all that part of a Peninsula, lying in the parts of America, betweene the Ocean On the East and the Bay of Chesopeack on the West, and divided from the other part thereof, by a right line drawne from the Promontory . . . called Watkins Point . . . on the West, unto the maine Ocean on the East; and betweene that bound on the South, unto that part of Delaware Bay on the North, which lieth under the fortieth degree of Northerly Latitude . . . And all that tract of land betweene the bounds aforesaid; that is to say, passing from the foresaid Bay, called Delaware Bay, in a right line by the degree aforesaid, unto the true Meridian of the first fountaine of the River of Pattowmeck, and from thence trending toward the South unto the farther bank of the fore-said River, and following the West and South Side thereof

unto a certaine place called Cinquack, situate neere the mouth of the said River, where it falls into the Bay of Chesopeack, and from thence by a straight line unto the foresaid Promontory, and place called Watkins Point, (So that all that tract of land divided by the line aforesaid, drawne betweene the maine Ocean, and Watkins Point unto the Promontory called Cape Charles, and all its apurtenances, doe remaine intirely excepted to us, our heires, and Successors for ever.)

Wee doe also grant and confirme unto the said now Lord Baltimore, . . all Veines, Mines, and Quarries, . . of Gold, Silver, Gemmes, and pretious stones, and all other whatsoever . . . And Furthermore the Patronages and Advowsons of all Churches, which (as Christian Religion shall encrease within the Countrey, Iles, Iletts, and limits aforesaid) shall happen hereafter to bee erected: together with licence and power, to build and found Churches, Chappells, and Oratories, in convenient and fit places within the premises, and to cause them to be dedicated, and consecrated according to the Ecclesiasticall Lawes of our Kingdome of England: Together with . . as ample rights, Jurisdictions, Priviledges . . and franchises of what kind soever Temporall, as well by Sea, as by land, within the Countrey . . aforesaid; To have . . and enjoy . . as amply as any Bishop of Durham, within the Bishoprick, or County Palatine of Durham, in our Kingdome of England, hath at any time heretofore had, held, used, or enjoyed, or of right ought, or might have had, held, used, or enjoyed.

And him the said now Lord Baltimore his Heires and Assignes, Wee . . create, and constitute the true and absolute Lords, and Proprietaries of the Countrey aforesaid, and of all other the Premises, (except before excepted) saving alwayes, the faith and allegiance, and Sovereigne dominion due unto Us, Our Heires and Successors.

To bee holden of Us, Our Heires, and Successors, Kings of England, as of Our Castle of Windsor, in Our County of Berkshire, in free and common soccage, by fealty onely, for all services, and not in Capite, or by Knights Service: Yeelding and paying therefore to Us, our Heires and Successors, two Indian Arrowes of those parts, to be delivered at Our said Castle of Windsor, every yeere on the Tuesday in Easter weeke; and also the fifth part of all Gold and Silver Oare within the limits aforesaid, which shall from time to time happen to be found.

And forasmuch as Wee have . . ordained . . Lord Baltimore, the true Lord, and Proprietary of all the Province aforesaid: Know yee therefore moreover, that Wee, reposing especiall trust and confidence in the fidelitie, wisdom, Justice, and Provident circumspection of . . Lord Baltimore . . doe grant . . absolute power . . to him and his

heires, for the good and happy government of the said Province, to ordaine . . . and . . . publish any Lawes whatsoever, appertaining either unto the publike State of the said Province, or unto the private utility of particular Persons . . . of and with the advise assent and approbation of the Free-men of the said Province . . . or of their delegates or deputies, whom for the enacting of the said Lawes . . . We will that . . . Lord Baltemore, and his heires, shall assemble in such sort and forme, as to him or them shall seeme best: And the same lawes duly to execute upon all people, within the said Province, and limits thereof, for the time being. . . And likewise to appoint and establish any Judges and Justices, Magistrates and Officers whatsoever, at sea and Land, for what causes soever, and with what power soever, and in such forme, as to the said now Lord Baltemore, or his heires, shall seeme most convenient: . . . Provided neverthesse, that the said Lawes be consonant to reason, and be not repugnant or contrary, but as neere as conveniently may be, agreeable to the Lawes, Statutes, Customes, and Rights of this our Kingdome of England. . .

And . . . wee doe straightly enjoyne, . . . that the said Province shall be of Our Allegiance, and that . . . the Subjects . . . of Us . . . transported . . . into the said Province, and the children of them . . . shall be Denizens, and Lieges of Us . . . and be in all things held . . . as the liege faithfull people of Us . . . borne within Our Kingdome of England: and likewise any Lands . . . and other hereditaments whatsoever, within Our Kingdome of England . . . may inherite, or otherwise purchase, receive, . . . and possesse, and them may occupy, . . . as likewise, all Liberties, Franchises, and Priviledges, of this Our Kingdome of England . . . have and possesse, occupy and enjoy, as Our liege people, borne . . . within Our said Kingdome of England. . .

And further . . . Wee . . . doe give . . . unto . . . Lord Baltemore . . . full . . . power, and authoritie, that hee . . . may assigne, aliene, grant . . . of the Premises so many, and such parts and parcells, to him . . . that shall be willing to purchase the same . . . to have and to hold to them the sayd person . . . in fee simple, or fee taile, or for terme of life, or lives, or yeeres, to bee held of the said now Lord Baltemore . . . by such . . . rents, as shall seeme fit to . . . Lord Baltemore. . . And by these Presents, We Give, and grant licence unto the said now Lord Baltemore, and his heires, to erect any parcells of land within the Province aforesaid, into Mannors and in every of the said Mannors, to have, and to hold a Court Baron. . .

And further, Our pleasure is . . . That Wee, Our Heires, and Successors, shall at no time hereafter, set, or make . . . any Imposition, Custome, or other Taxation . . . whatsoever . . . upon the dwellers

and inhabitants of the foresaid Province, for their Lands, Tenements, goods or Chattells within the said Province, or in or upon any goods or merchandizes, within the said Province, or to be laden, or unladen within any the Ports or harbours of the said Province:.. Wee will, ordaine, and command, that at all times, and in all things, such Interpretation bee made thereof, and allowed in any of Our Courts whatsoever, as shall be judged most advantageous, and favourable unto the said now Lord Baltemore, his heires and assignes. . .

In witnesse whereof, Wee have caused these Our Letters to bee made Pattents. Witnesse Our selfe at Westminster, the Twentieth day of June, in the Eighth yeere of Our Reigne.

7. THE NEW ENGLAND CONFEDERATION

The non-radical Puritan colonies of New England on September 7/17, 1643, concluded a confederation between themselves. Besides the purposes avowed in the articles, it was the unexpressed desire of the weaker colonies to put a bridle on the powerful and aggressive Massachusetts-Bay Colony. The articles should be compared with the Albany Plan of Union (No. 23), the Articles of Confederation (No. 55) and the Constitution of the United States (No. 64), with a view to the evolution of the principle of federal government. Note the fugitive slave clause.

Records of the Colony of New Plymouth, Vol. 9, pp. 3-8. Boston, 1859.

The New England Confederation

ARTICLES OF CONFEDERATION BETWEENE THE Plantations under the Government of the Massachusetts, the Plantations under the Government of New Plymouth the Plantations under the Government of Connectacutt, and the Government of New Haven with the Plantacions in Combinacion therewith:

The Articles

Whereas wee all came into these parts of America with one and the same end and aime, namely, to advaunce the Kingdome of our Lord Jesus Christ and to enjoy the liberties of the Gospell in puritie with peace And whereas in our settleinge (by a wise providence of God) we are further dispersed upon the Sea Coasts and Rivers then was at first intended, so that we cannot according to our desire with convenience communicate in one Government and jurisdiction: And

whereas we live encompassed with people of severall Nations and strang languages which hereafter may prove injurious to us or our posteritie. And forasmuch as the Natives have formerly committed sondry insolences and outrages upon several Plantacions of the English and have of late combined themselves against us And seing by reason of those sad distractions in England which they have heard of, and by which they know we are hindred from that humble way of seeking advise, or reapeing those comfortable fruits of protection, which at other tymes we might well expect. Wee therefore doe conceive it our bounden dutye, without delay to enter into a present Consotiation amongst our selves, for mutuall help and strength in all our future concernments: That as in Nation and Religion, so in other respects, we bee and continue One according to the tenor and true meaneing of the ensuing Articles: Wherefore it is fully agreed and concluded by and between the parties or Jurisdictions above named, and they joyntly and severally do by these presents agree and conclude That they all bee and henceforth bee called by the name of **THE UNITED COLONIES OF NEW ENGLAND.**

2 The said United Colonies for themselves and their posterities do joyntly and severally hereby enter into a firme and perpetuall league of ffriendship and amytie for offence and defence, mutuall advice and succour upon all just occations both for preserving and propagateing the truth and liberties of the Gospell and for their owne mutuall safety and welfare.

3 It is further agreed That the Plantations which at present are or hereafter shalbe settled within the limmetts of the Massachusetts shalbe forever under the Massachusetts and shall have peculier Jurisdiction among themselves in all cases as an entire Body, and that Plyouth Connecktacutt and New Haven shall eich of them have like peculier Jurisdiction and government within their limmetts and in reference to the Plantations which already are settled, or shall hereafter be erected, or shall settle within their limmetts respectively Provided no other Jurisdiction shall hereafter be taken in as a distinct head or member of this Confederation nor shall any other Plantation or Jurisdiction in present being, and not already in Combynation or under the Jurisdiction of any of these Confederates, be received by any of them nor shall any two of the Confederates joyne in one Jurisdiction without consent of the rest which consent to be interpreted as is expressed in the sixt Article ensuinge.

4 It is by these Confederates agreed that the charge of all just warrs, whether offensive or defensive upon what part or member of this Confederation soever they fall, shall both in men provisions and all other

disbursements be borne by all the parts of this Confederation in different proportions according to their different abillitie in manner following, namely, that the Comissioners for eich Jurisdiction from tyme to tyme, as ther shall be occation bring a true account and number of all the males in every Plantation, or any way belonging to or under their severall Jurisdictions, of what quallty or condition soever they bee, from sixteene yeares old to threescore, being Inhabitants there. And that according to the different numbers which from tyme to tyme shalbe found in eich Jurisdiction upon a true and just account, the service of men and all charges of the warr be borne by the Poll: . . And that according to their different charge of eich Jurisdiction and plantation, the whole advantage of the warr (if it please God so to bless their endeavours) whether it be in lands goods or persons shalbe proportionably divided among the said Confederates.

5 It is further agreed That if any of these Jurisdictions or any plantation under or in combynation with them, be envaded by any enemye whomsoever upon notice and request of any three magistrats of that Jurisdiction so invaded, the rest of the Confederates without any further meeting or expostulation shall forthwith send ayde to the Confederate in danger but in different proportions; namely, the Massachusetts an hundred men . . . and eich of the rest, forty-five so armed and provided, or any lesse number, if lesse be required according to this proportion. But in any such case of sending men for present ayd . . . it is agreed that at the meeting of the Comissioners for this Conferation, the cause of such warr or invasion be duly considered: And if it appeare that the fault lay in the parties so invaded that then that Jurisdiction or plantation make just satisfaction, both to the Invaders whom they have injured, and beare all the charges of the warr themselves, without requiring any allowance from the rest of the Confederates towards the same And further that if any Jurisdiction see any danger of any Invasion approaching, and there be tyme for a meeting, that in such case three magistrates of that Jurisdiction may summon a meeting at such convenient place as themselves shall think meete, to consider and provide against the threatned danger Provided when they are mett they may remoove to what place they please. . .

6 It is also agreed that for the mannageing and concluding of all affaires proper and concerneing the whole Confederation two Comissioners shalbe chosen by and out of eich of these foure Jurisdictions namely two for the Mattachusetts two for Plymouth two for Connectacutt and two for New Haven being all in Church fellowship with us which shall bring full power from their severall Generall Courts respectively to heare examine weigh and determine all affaires

of our warr or peace leagues ayds charges and numbers of men for warr, division of spoyles and whatsoever is gotten by conquest receiveing of more Confederats for plantations into combination with any of the confederates, and all thinges of like nature, which are the proper concomitants or consequents of such a Confederation for amytie offence and defence not intermedleing with the government of any of the Jurisdictions, which by the third Article is preserved entirely to themselves . . . any six of the eight agreeing shall have power to settle and determine the businesse in question; But if six do not agree that then such propositions with their reasons so farr as they have beene debated, be sent and referred to the foure general Courts viz the Mattachusetts, Plymouth, Connectticut, and New Haven; And if at all the said General Courts the businesse so referred be concluded, then to be prosecuted by the Confederates and all their members It is further agreed that these eight Comissioners shall meete once every yeare besides extreordinary meetings (according to the fift Article) to consider treate and conclude of all affaires belonging to this Confederation which meeting shall ever be the first Thursday in September. . .

7 It is further agreed that at each meeting of these eight Comissioners whether ordinary or extraordinary they orr six of them agreeing as before, may chose their President out of themselves . . . but he shalbe invested with no such power or respect, as by which he shall hinder the propounding or progresse of any businesse or any way cast the scales otherwise then in the precedent Article is agreed.

8 It is also agreed that the Comissioners for this Confederation hereafter at their meetings, . . do endeavoure to frame and establish agreements and orders in generall cases of a civill nature, wherein all the Plantations are interressed for preserving of peace among themselves, for preventing as much as may bee all occations of warr or differences with others, as about the free and speedy passage of justice in every Jurisdiction, to all the Confederats equally as to their owne, receiveing those that remooove from one plantation to another without due certefycates, how all the Jurisdictions may carry it towards the Indians, that they neither grow insolent nor be injured without due satisfaction, lest warr break in upon the Confederates through such miscarryages. It is also agreed that if any servant runaway from his master into any other of these confederated Jurisdictions, That in such case upon the Certifycate of one Magistrate in the Jurisdiction out of which the said servant fled or upon other due prooffe; the said servant shalbe delivered, either to his Master or any other that pursues and brings such Certificate or prooffe. And that upon the escape of any prisoner whatsoever, . . upon the certificate of two Magistrats of the

Jurisdiction out of which the escape is made, . . The Magistrates, . . of that Jurisdiction where for the present the said prisoner or fugitive abideth, shall forthwith graunt such a warrant as the case will beare for the apprehending . . . and the delivery of him into the hands of the officer, or other person who pursues him And if there be help required for the safe returneing of any such offender, then it shalbe graunted to him that craves they same he payinge the charges thereof.

9 And for that the justest warrs may be of dangerous consequence, especially to the smaler Plantations in these united Colonies, It is agreed that neither the Massachusetts, Plymouth Connectacutt, nor New Haven, . . shall at any tyme hereafter . . engage . . in any warr whatsoever (sudden exegents, with the necessary consequents thereof excepted) . . without the consent and agreement of the forementioned eight Comissioners, or at least six of them, as in the sixt Article is provided: And that no charge be required of any of the Confederates in case of a defensive warr, till the said Comissioners have mett, and approved the justice of the warr, and have agreed upon the sum of money to be levyed, which sum is then to be paid by the severall Confederates in proportion according to the fourth Article.

10 That in extraordinary occations when meettings are summoned by three Magistrats of any Jurisdiction, or two as in the fift Article If any of the Comissioners come not due warneing being given or sent It is agreed that foure of the Comissioners shall have power to direct a warr which cannot be delayed, and to send for due proportions of men out of eich Jurisdiction, as well as six might doe if all mett; but not lesse then six shall determine the justice of the warr, or allow the demaunds or bills of charges, or cause any levies to be made for the same

11 It is further agreed that if any of the Confederates shall hereafter break any of these present Articles, or be any other wayes injurious to any one of thother Jurisdictions; such breach of agreement, or injurie shalbe duly considered and ordered by the Comissioners for thother Jurisdictions, that both peace and this present confederation may be entirely preserved without violation.

12 Lastly this perpetual Confederation and the severall Articles and agreements thereof being read and seriously considered, both by the general Court for the Massachusetts, and by the Comissioners for Plymouth Connecticut, and New Haven were fully allowed and confirmed. . .

8. THE NAVIGATION ACTS

THE FIRST NAVIGATION ACT, 1660

This act, like its predecessor, passed under the government of the Commonwealth in 1651, was intended to put in force the principles of political economy, ordinarily alluded to as Mercantilism; — subjection of the colonies to the interest of the commerce and navigation of the empire. Successive acts were passed in 1663 and 1672.

Pickering, Statutes at Large, Vol. 7, pp. 452-459, Vol. 8, pp. 161-162, 398-399. Cambridge, 1763.

FOR the increase of shipping and encouragement of the navigation of this nation, wherein, under the good providence and protection of God, the wealth, safety and strength of this kingdom is so much concerned; (2) be it enacted by the King's most excellent majesty, and by the lords and commons in this present parliament assembled, and by the authority thereof, That from and after the first day of *December* one thousand six hundred and sixty, . . no goods or commodities whatsoever shall be imported into or exported out of any lands, islands, plantations or territories to his Majesty belonging . . . in *Asia, Africa or America*, in any other . . . ships . . . but in such . . . as do . . . belong only to the people of *England or Ireland* . . . *Wales* or town of *Berwick upon Tweed*, or are . . . belonging to . . . the said lands, islands, plantations or territories, as the proprietors and right owners thereof, and whereof the master and three fourths of the mariners at least are *English*; (3) under the penalty of the forfeiture and loss of all the goods and commodities which shall be imported into or exported out of any the aforesaid places . . . as also of the ship or vessel, with all its guns, furniture . . . and apparel; one third part thereof to his Majesty, . . one third part to the governor of such land, . . where such default shall be committed, in case the said ship or goods be there seized, or otherwise that third part also to his Majesty, . . and the other third part to him or them who shall . . . inform . . . for the same . . . (4) and all . . . commanders . . . of any the ships of war or other ship having commission from his Majesty . . . are . . . strictly required to seize and bring in as prize all such ships or vessels as shall have offended contrary hereunto, and deliver them to the court of admiralty, there to be proceeded against . . .

II. And be it enacted, That no alien . . . shall . . . after the first day of *February*, . . one thousand six hundred sixty-one, exercise the trade

or occupation of a merchant or factor in any the said places; (2) upon pain of the forfeiture and loss of all his goods and chattels, or which are in his possession . . . (3) and all governors of the said lands . . . are hereby strictly required and commanded, . . . to do their utmost, that every the aforementioned clauses, and all the matters and things therein contained, shall be punctually and *bona fide* observed according to the true intent and meaning thereof. . .

III. And it is further enacted by the authority aforesaid, That no goods or commodities whatsoever, of the growth, production or manufacture of *Africa, Asia or America* . . . be imported into *England, Ireland or Wales*, islands of *Guernsey* and *Jersey*, or town of *Berwick* upon *Tweed*, in any other ship or ships, . . . but in such as do truly . . . belong . . . to the people of *England or Ireland*, dominion of *Wales*, or town or *Berwick* upon *Tweed*, or of the lands . . . or territories in *Asia, Africa or America*, to his Majesty belonging . . . and whereof the master, and three fourths at least of the mariners are *English*; (2) under the penalty of the forfeiture of all such goods and commodities, and of the ship or vessel in which they were imported, with all her guns, tackle, furniture, ammunition and apparel; . .

IV. And it is further enacted by the authority aforesaid, That no goods or commodities that are of foreign growth, production or manufacture, and which are to be brought into *England, Ireland, Wales*, the islands of *Guernsey* and *Jersey*, or town of *Berwick* upon *Tweed*, in *English*-built shipping, . . . shall be shipped or brought from any other place or places . . . but . . . from those of the said growth, production or manufacture, or from those ports where the said goods and commodities . . . usually have been, first shipped for transportation, . .

XII. Provided always, That this act, . . . extend not, or be meant, to restrain and prohibit the importation of any the commodities of the *Streights or Levant-Seas*, loaden in *English* built shipping, and whereof the master and three fourths of the mariners at least are *English*, from the usual ports or places for lading of them heretofore within the said *Streights* . . . though the said commodities be not of the very growth of the said places.

XIII. Provided also, That this act . . . extend not, . . . to restrain the importing of any *East-India* commodities loaden in *English* built shipping, . . . from the usual place . . . for lading of them in any part of those seas, to the southward and eastward of *Cabo bona Esperanza*, although the said ports be not the very places of their growth.

XIV. Provided also, That it shall . . . be lawful . . . for any of the people of *England, Ireland, Wales*, islands of *Guernsey* or *Jersey*, or town of *Berwick* upon *Tweed*, in vessels or ships to them belonging, . .

to...bring in from any of the ports of *Spain* or *Portugal*, or...*Azores*, or *Madera* or *Canary* islands, all sorts of goods or commodities of the growth production or manufacture of the plantations or dominions of either of them respectively...

XVIII. And it is further enacted...That...after the first day of *April*,..one thousand six hundred sixty-one, no sugars, tobacco, cotton-wool, indicoes, ginger, fustick, or other dying wood, of the...production...of any *English* plantations in *America*, *Asia*, or *Africa*, shall be shipped,..from any of the said *English* plantations to any land...whatsoever, other than to such other *English* plantations as do belong to his Majesty or to the kingdom of *England* or *Ireland*, or principality of *Wales*, or town of *Berwick* upon *Tweed* there to be laid on shore...

XIX. And be it further enacted...That for every ship...which...after the five and twentieth day of *December*...one thousand six hundred and sixty shall set sail...from *England*, *Ireland*, *Wales*, or town of *Berwick* upon *Tweed*, for any *English* plantation in *America*, *Asia* or *Africa*, sufficient bond shall be given...to the value of one thousand pounds, if the ship be of less burthen than one hundred tons; and of the sum of two thousand pounds, if the ship shall be of greater burthen; that in case the said ship...shall load any of the said commodities at any of the said *English*, plantations, that the same commodities shall be by the said ship brought to some port of *England*, *Ireland*, *Wales*, or to the port or town of *Berwick* upon *Tweed*, and shall there unload and put on shore the same, the danger of the seas only excepted;..

THE SECOND NAVIGATION ACT, 1663

V. *And in regard his Majesty's plantations beyond the seas are inhabited and peopled by his subjects of this his kingdom of England; for the maintaining a greater correspondence and kindness between them, and keeping them in a firmer dependance upon it,..and making this kingdom a staple, not only of the commodities of those plantations, but also of the commodities of other countries and places, for the supplying of them; and it being the usage of other nations to keep their plantations track to themselves.*

VI. Be it enacted, and it is hereby enacted, That from and after the five and twentieth day of *March* one thousand six hundred sixty-four, no commodity of the growth, production or manufacture of *Europe*, shall be imported into any land...or place to his Majesty belonging,..in *Asia*, *Africa* or *America*, (*Tangier* only excepted) but

what shall be . . . shipped in *England, Wales*, or the town of *Berwick upon Tweed*, and in *English* built shipping . . . and whereof the master and three fourths of the mariners at least are *English*, and which shall be carried directly thence to the said lands . . . or places, and from no other place or places whatsoever; any law, statute or usage to the contrary notwithstanding; (2) under the penalty of the loss of all such commodities . . . and . . . of the ship or vessel also in which they were imported, with all her guns, tackle, furniture, ammunition and apparel; . . .

VII. Provided always . . . That it . . . may be lawful to ship and lade in such ships, . . in any part of *Europe*, salt for the fisheries of *New-England* and *Newfoundland*, and to ship and lade in the *Madera's* wines of the growth thereof, and to ship and lade in the Western islands of *Azores* wines of the growth of the said islands, and to ship and take in servants or horses in *Scotland* or *Ireland*, and to ship or lade in *Scotland* all sorts of victual of the growth or production of *Scotland*, and to ship or lade in *Ireland* all sorts of victual of the growth or production of *Ireland*, and the same to transport into any of the said lands . . . or places: . .

THE THIRD NAVIGATION ACT — 1672

II. . . . *And whereas by one act passed in this present parliament in the twelfth year of your Majesty's reign, intituled, An act for encouragement of shipping and navigation, . . it is permitted to ship, . . sugar, tobacco, cotton-wool, indico, ginger, fustick and all other dyeing-wood of the growth, . . of any of your Majesty's plantations in America, Asia or Africa, from the places of their growth, . . to any of your Majesty's plantations in those parts, (Tangier only excepted) . . without paying of custom for the same, either at the lading or unlading of the said commodities . . we your Majesty's commons in Parliament assembled, to pray that it may be enacted; . . That from and after the first day of September . . one thousand six hundred seventy and three, if any ship . . which by law may trade in any of your Majesty's plantations, shall come to any of them to ship and take on board any of the aforesaid commodities, and that bond shall not be first given with one sufficient surety to bring the same to *England* or *Wales*, or the town of *Berwick upon Tweed*, and to no other place, and there to unload and put the same on shore, (the danger of the seas only excepted) that there shall be . . paid to your Majesty . . these following . . duties: . . for sugar white, the hundred weight containing one hundred and twelve pounds, five shillings; and brown sugar and muscovadoes, the hundred*

weight... one shilling and six pence; (5) for tobacco, the pound one penny; for cotton-wool, the pound one half-penny; for indico, the pound two pence; for ginger, the hundred weight... one shilling; (6) for logwood, the hundred weight... five pounds; for fustick and all other dying-wood, the hundred weight... six pence: and also for every pound of cocoa-nuts, one penny; ..

9. THE CONNECTICUT CHARTER OF 1662

April 23/May 3, 1662, Charles II, granted to the colony of Connecticut a charter that made it a self-governing commonwealth, in all but a few things independent of the British crown. The charter closely resembles that of Rhode Island. It served as the constitution of Connecticut till 1818.

The Public Records of the Colony of Connecticut, Vol. 2, pp. 3-11. *Hartford, 1852.*

CHARLES THE SECOND, BY THE GRACE of God, King of England, Scotland, France and Ireland, defender of the Faith, &c.; TO all to whome theis presents shall come, Greetinge:.. WHEREAS, We have byn informed by the humble Peticon of our Trusty and wel-beloved John Winthrop, John Mason,..being Persons Principally interested in our Colony or Plantacon of Conecticut in New England, that the same Colony or the greatest parte thereof was purchased and obteyned for greate and valuable consideracons, And some other parte thereof gained by Conquest and with much difficulty, and att the onely endeavours, expence and Charge of them and their Associates, and those vnder whome they Clayme, Subdued and improved, and thereby become a considerable enlargement and addicon of our Dominions and interest there, — Now KNOW YEA, that... WEE HAVE thought fitt, and att the humble Peticon of the Persons aforesaid, and are graciously pleased to Create and Make them a Body Pollitique and Corporate, with the powers and Priviledges herein after menconed; .. And by theis presents, for vs, our heires and Successors, DOE Ordeine, Constitute and Declare That they, the said John Winthrop, John Mason... and all such others as now are or hereafter shall bee Admitted and made free of the Company and Society of our Collony of Conecticut in America, shall from tyme to tyme and for ever hereafter, bee one Body Corporate and Pollitique in fact and name, by the Name of Governour and Company of the English Collony of Conecticut in New England in

America; And that by the same name they and their Successors shall and may have perpetuall Succession, and shall and may bee Persons able and capable in the law to Plead and bee Impleaded, to Answer and to bee Answered vnto, to Defend and bee Defended in all and singular Suits, Causes, quarrells, Matters, Accons and things of what kind or nature soever, And alsoe to have, take, possesse, acquire and purchase lands, Tenements or hereditaments, or any goods or Chattells, and the same to Lease, Graunt, Demise, Alien, Bargaine, Sell and dispose of, as other our leige People of this our Realme of England, or any other Corporacon or Body Pollitique within the same may lawfully doe. AND FURTHER, that the said Governour and Company, and their Successors shall and may for ever hereafter have a Comon Seale ... AND further, wee ... DOE Declare and appoint, that for the better ordering and manageing of the affaires and businesse of the said Company and their Successors, there shall bee one Governour, one Deputy Governour and Twelve Assistants, to bee from tyme to tyme Constituted, Elected and Chosen out of the Freemen of the said Company for the tyme being, in such manner and forme as hereafter in these presents is expressed; which said Officers shall apply themselves to take care for the best disposing and Ordering of the Generall busines and affaires of and concerning the lands and hereditaments herein after mençoned to bee graunted, and the Plantaçon thereof and the Government of the People thereof ... AND further, wee ... DOE Ordaine and Graunt that the Governour of the said Company for the tyme being, or, in his absence by occasion of sicknes, or otherwise by his leave or permission, the Deputy Governour for the tyme being, shall and may from tyme to tyme vpon all occasions give Order for the assembling of the said Company and calling them together to Consult and advise of the businesse and Affaires of the said Company, And that for ever hereafter, Twice in every yeare, (That is to say,) on every second Thursday in October and on every second Thursday in May, or oftener, in Case it shall be requisite, The Assistants and freemen of the said Company, or such of them (not exceeding twoe Persons from each place, Towne or Citty) whoe shall bee from tyme to tyme therevnto Elected or Deputed by the maior parte of the freemen of the respective Townes, Cittyes and Places for which they shall bee soe elected or Deputed, shall have a generall meeting or Assembly, then and their to Consult and advise in and about the Affaires and businesse of the said Company; And that the Governour, or in his absence the Deputy Governour of the said Company for the tyme being, and such of the Assistants and freemen of the said Company as shall be soe Elected or Deputed and bee present att such meet-

ing or Assembly, or the greatest number of them, whereof the Governour or Deputy Governour and Six of the Assistants, at least, to bee Seaven, shall be called the Generall Assembly, and shall have full power and authority to alter and change their dayes and tymes of meeting or Generall Assemblies for Electing the Governour, Deputy Governour and Assistants or other Officers, or any other Courts, Assemblies or meetings, and to Choose, Nominate and appoint such and soe many other Persons as they shall thinke fitt and shall bee willing to accept the same, to bee free of the said Company and Body Politique, and them into the same to Admitt and to Elect, and Constitute such Officers as they shall thinke fitt and requisite for the Ordering, mannageing and disposing of the Affaires of the said Governour and Company and their Successors. AND WEE DOE... Establish and Ordeine, that once in the yeare, for ever hereafter, namely, the said Second Thursday in May, the Governour, Deputy Governour and Assistants of the said Company and other Officers of the said Company, or such of them as the said Generall Assembly shall thinke fitt, shall bee, in the said Generall Court and Assembly to bee held from that day or tyme, newly Chosen for the yeare ensuing, by such greater part of the said Company for the tyme being then and there present... AND WEE DOE FURTHER... give and Graunt vnto the said Governor and Company... that itt shall and may bee lawfull to and for the Governor or Deputy Governor and such of the Assistants of the said Company for the tyme being as shall bee Assembled in any of the Generall Courts aforesaid, or in any Courts to bee especially Sumoned or Assembled for that purpose, or the greater parte of them, wherof the Governor or Deputy Governor and Six of the Assistants to bee all wayes Seaven, to Erect and make such Judicatories for the heareing and Determining of all Accons, Causes, matters and thinges happening within the said Colony or Plantacon and which shall bee in dispute and depending there, as they shall thinke fitt and convenient; And alsoe from tyme to tyme to Make, Ordaine and Establish All manner of wholsome and reasonable Lawes, Statutes, Ordinances, Direccons and Instruccons, not contrary to the lawes of this Realme of England, as well for settling the formes and Ceremonies of Governement and Magestracy fitt and necessary for the said Plantacon and the Inhabitants there as for naming and Stileing all sorts of Officers, both superior and inferior, which they shall find needfull for the Governement and Plantacon of the said Colony, and the distinguishing and setting forth of the Severall Dutyes, Powers and Lymitts of every such Office and Place, and the formes of such Oathes, not being contrary to the Lawes and Statutes of this our Realme of England, to bee Administreed for the Execucon

of the said severall Offices and Places; ..AND KNOW YEE FURTHER, That Wee, .. HAVE given, Graunted and Confirmed, .. vnto the said Governor and Company and their Successors, ALL that parte of our Dominions in Newe England in America bounded on the East by Norrogancett River, comonly called Norrogancett Bay, where the said River falleth into the Sea, and on the North by the lyne of the Massachusetts Plantation, and on the South by the Sea, and in longitude as the lyne of the Massachusetts Colony, runinge from East to West, (that is to say,) from the said Narrogancett Bay on the East to the South Sea on the West parte, with the Islands therevnto adioynge, .. TO BEE HOLDEN of vs, our heires and Successors, as of our Manor of East Greenwich, in Free and Comon Soccage, and not in Capite nor by Knights Service, YEILDING AND PAYINGE therefore, to vs, our heires and Successors, onely the Fifth parte of all the Oare of Gold and Silver which from tyme to tyme and att all tymes hereafter shall bee there gotten, had or obteyned, in lieu of all Services, Dutyes and Demaunds whatsoever, to bee to vs, our heires or Successors, therefore or thereout rendered, made or paid...IN WITNES whereof, wee have caused these our Letters to bee made Patent: WITNES our Selfe, att Westminster, the three and Twentieth day of Aprill, in the Fowerteenth yeare of our Reigne.

By writt of Privy Seale.

HOWARD.

10. THE CHARTER OF RHODE ISLAND

On July 8/18, 1663, Charles II, granted to Rhode Island a charter as liberal as that of Connecticut, and further enshrining the principle of liberty of conscience. Only those parts of the charter are reproduced that are distinctive from that of Connecticut.

Poore, Federal and State Constitutions, Vol. 2, pp. 1595-1603.

CHARLES THE SECOND, by the Grace of *God*, King of England, Scotland, France and Ireland, Defender of the Faith, &c., to all to whome these presents shall come, greeting: *Whereas wee* have been informed, by ... the humble petition of our trusted and well beloved subject, John Clarke, on the behalf of ... the purchasers and ffree inhabitants of our island, called *Rhode-Island*, and the rest of the colonie of Providence Plantations, in the Narragansett Bay, in New-England, in America, that they ... have ffreely declared, that it is much on their hearts (if they may be permitted), to hold forth a livelie experiment, that a most flourishing civill state may stand and best be maintained,

and that among our English subjects, with a full libertie in religious concernements; and that true pietye rightly grounded upon gospell principles, will give the best and greatest security to soveraignetye, and will lay in the hearts of men the strongest obligations to true loyaltye: *Now know yee*, that wee . . . doe hereby . . . declare That our royall will and pleasure is, that noe person within the sayd colonye . . . shall bee any wise molested . . . or called in question, for any differences in opinione in matters of religion, and doe not actually disturb the civill peace of our sayd colony; but that . . . everye person . . . may . . . freelye and fullye have and enjoye his and their owne judgments and consciences, in matters of religious concernments, throughout the tract of lande hereafter mentioned; they behaving themselves peaceable and quietlie . . . And accordingly . . . *wee* . . . doe ordeyne, constitute and declare, That they, the sayd William Brenton, William Codrington, Nicholas Easton, Benedict Arnold . . . Samuel Gorton, . . . Roger Williams, . . . Joseph Clarke . . . and all such others as . . . are or hereafter shall be admitted and made ffree of the company and societie of our collonie of Providence Plantations, in the Narragansett Bay, in New-England, shall bee . . . a bodie corporate and politique . . . by the name of *The Governor and Company of the English Colony of Rhode-Island and Providence Plantations, in New-England, in America*; . . . And further, know ye, that wee . . . doe give, graunt and confirme, vnto the sayd Governour and Company, and their successours, all that parte of our dominiones in New-England, in America, conteyning the Nahantick and Nanhyganset Bay, and cuntryes and partes adjacent, bounded on the west, or westerly, to the . . . channel of a river there, commonly called and known by the name of Pawcatuck, alias Pawcawtuck river, and soe along the sayd river . . . vpp into the north countrye, northward, unto the head thereof, and from thence, by a streight lyne drawn due north, vntill itt meets with the south lyne of the Massachusetts Collonie; and on the north, or northerly, by the aforesayd south or southerly lyne of the Massachusettes collony or Plantation, and extending towards the east, or eastwardly, three English miles to the east and north-east of the most eastern and north-eastern parts of the aforesayd Narragansett Bay . . . vnto the mouth of the river . . . (higher called by the name of Seacunck river) . . . upto the ffalls called Patuckett ffalls, being the most westwardly lyne of Plymouth Collony, and soe from the sayd ffalls, in a streight lyne, due north, untill itt meete with the aforesayd line of the Massachusetts Collony; and bounded on the south by the ocean . . . to be holden of us . . . as of the Mannor of East-Greenwich, in our county of Kent, in free and common soccage, and not in capite, nor by knight service;

yeilding and paying therefor, to vs...only the fifth part of all the oare of gold and silver which...shall bee there gotten...in lieu...of all services...*And further*, our will and pleasure is, that in all matters of publique controversy...itt shall...be lawfull to and for the Governour and Company of the sayd Colony of Providence Plantations to make their appeales therein to vs, our heirs and successours, for redresse in such cases, within this our realme of England: and that itt shall bee lawfull...for the inhabitants of the sayd Colony...to passe and repasse with freedome, into and thorough the rest of the English Collonies, vpon their lawfull and civill occasions, and to converse, and hold commerce and trade, with such of the inhabitants of our other English Colonies as shall bee willing to admitt them thereunto...*In witnes* whereof, wee have caused these our letters to bee made patent. *Witness* our Selfe att Westminster, the eighth day of July, in the ffifteenth yeare of our reigne.

By the King:

HOWARD.

11. THE FUNDAMENTAL CONSTITUTIONS OF CAROLINA — 1669

The charter granted by Charles II to the eight proprietors of Carolina is omitted as closely resembling in essentials those of other proprietary colonies. As a single example of the strange projects of government and social order that men tried to establish in America, the instrument for the government of Carolina that John Locke drew up for the proprietors is here included. It aims at the establishment of fixed social and propertied classes. Repeatedly after 1669 the proprietors endeavored to put the Constitutions into effect, only to be baffled by popular opposition. In spite of them the Carolinas grew to be colonies in government like the others on the continent.

Poore, Federal and State Constitutions, Vol. 2, pp. 1397-1407.

OUR sovereign lord the King having, out of his royal grace and bounty, granted unto us the province of Carolina, with all the royalties, properties, jurisdictions, and privileges of a county palatine, as large and ample as the county palatine of Durham, with other great privileges; for the better settlement of the government of the said place, and establishing the interest of the lords proprietors with equality and without confusion; and that the government of this province may be made most agreeable to the monarchy under which we live and of which this province is a part; and that we may avoid erecting a numerous democracy, we, the lords and proprietors of the province

aforesaid, have agreed to this following form of government, to be perpetually established amongst us, into which we do oblige ourselves, our heirs and successors, in the most binding ways that can be devised.

One. The eldest of the lords proprietors shall be palatine; and, upon the decease of the palatine, the eldest of the seven surviving proprietors shall always succeed him.

Two. There shall be seven other chief offices erected, viz: the admirals, chamberlains, chancellors, constables, chief justices, high stewards, and treasurers; which places shall be enjoyed by none but the lords proprietors, to be assigned at first by lot; and, upon the vacancy of any one of the seven great offices, by death or otherwise, the eldest proprietor shall have his choice of the said place.

Three. The whole province shall be divided into counties; each county shall consist of eight signiories, eight baronies, and four precincts; each precinct shall consist of six colonies.

Four. Each signiory, barony, and colony shall consist of twelve thousand acres; the eight signiories being the share of the eight proprietors, and the eight baronies of the nobility; both which shares, being each of them one-fifth of the whole, are to be perpetually annexed, the one to the proprietors, the other to the hereditary nobility, leaving the colonies, being three-fifths, amongst the people; so that in setting out and planting the lands, the balance of the government may be preserved. . .

Nine. There shall be just as many landgraves as there are counties, and twice as many caziques, and no more. These shall be the hereditary nobility of the province, and by right of their dignity be members of parliament. Each landgrave shall have four baronies, and each cazique two baronies, hereditarily and unalterably annexed to and settled upon the said dignity. . .

Seventeen. Every manor shall consist of not less than three thousand acres, and not above twelve thousand acres, in one entire piece and colony, but any three thousand acres or more in one piece, and the possession of one man, shall not be a manor, unless it be constituted a manor by the grant of the palatine's court. . .

Twenty-one. Every lord of a manor, within his own manor, shall have all the rights, powers, jurisdictions, and privileges which a landgrave or cazique hath in his baronies.

Twenty-two. In every signiory, barony, and manor, all the leet-men shall be under the jurisdiction of the respective lords of the said signiory, barony, or manor, without appeal from him. Nor shall any leet-man or leet-woman have liberty to go off from the land of their

particular lord and live anywhere else, without license obtained from their said lord, under hand and seal.

Twenty-three. All children of leet-men shall be leet-men and so to all generations.

Twenty-four. No man shall be capable of having a court-leet or leet-men but a proprietor, landgrave, cazique, or lord of a manor...

Seventy. It shall be a base and vile thing to plead for money or reward; nor shall any one (except he be a near kinsman, not farther off than cousin-german to the party concerned) be permitted to plead another man's cause, till before the judge in open court, he hath taken an oath that he doth not plead for money or reward, nor hath nor will receive, nor directly nor indirectly bargained with the party whose cause he is going to plead, for money or any other reward for pleading his cause...

Ninety-five. No man shall be permitted to be a freeman of Carolina, or to have any estate or habitation within it, that doth not acknowledge a God; and that God is publicly and solemnly to be worshipped...

One hundred and two. No person of any other church or profession shall disturb or molest any religious assembly...

One hundred and six. No man shall use any reproachful, reviling, or abusive language against any religion of any church or profession; that being the certain way of disturbing the peace, and of hindering the conversion of any to the truth, by engaging them in quarrels and animosities, to the hatred of the professors and that profession which otherwise they might be brought to assent to...

12. ESTABLISHMENT OF THE LORDS OF TRADE

March 12/22, 1674, a committee of the English Privy Council was established to deal with colonial affairs.

E. B. O'Callaghan, Documents Relative to the Colonial History of the State of New York, Vol. 3, pp. 229-230. Albany, 1853.

THE Right Hon^{ble} The Lord Keeper of y^e Greate Seale of England this day acquainted y^e by his Ma^{ties} Command, that his Ma^{tie} haveing been pleased to dissolve & Extinguish his late Council of Trade & Forraine Plantations whereby all matters under their cognizance are left loose and at large, Had thought fit to commit what was under their inspection and management to the Committee of this Board appointed for matters relating to Trade and his Foreign Planta-

tions, viz^t The Lord Treasurer, Lord Privie Seale, Duke of Lauderdale, Duke of Ormonde, Marquesse of Worcester, Earle of Ossory, Lord Chamberlain, Earle of Bridgewater, Earle of Essex, Earle of Carlisle, Earle of Craven, Viscount Fauconburg, Viscount Halyfax, Lord Berkeley, Lord Holles, M^r Vice Chamberlain, M^r Secretary Coventry, M^r Sec^y Williamson, M^r Chancellor of y^e Exchequer, M^r Chancellor of y^e Dutchy, & M^r Speaker; and did Particularly order that y^e Lord Privie Seale, the Earle of Bridgewater, Earle of Carlisle, Earle of Craven, Viscount Fauconberg, Viscount Halyfax, Lord Berkeley, M^r Vice Chamberlain, and M^r Chancellor of the Exchequer should have y^e immediate care and intendency of those affairs, in regard they had been formerly conversant and acquainted therewith, And therefore that any five of the last named Lords should be a quorum of y^e said committee, And that their Lordships meet constantly at least once a weeke, and make report to his Ma^{ty} in Councill of their results and Proceedings from time to time, And that they have power to send for all Bookes, papers & other writings concerning any of his Ma^{ty}s said Plantations, in whosoever Custody they shall be informed the same do remayne; And his Lord^p further signified his Ma^{ty}s pleasure that Sir Robert Southwell do constantly attend y^e said Committee.

J. NICHOLAS.

13. THE CHARTER OF PENNSYLVANIA

March 4/14, 1680/81, the Quaker, William Penn, secured from Charles II the grant of Pennsylvania under the following proprietary charter. Only the distinctive features are reproduced. It represents an attempt to rivet the imperial control more closely on the proprietor than previous charters had done.

Poore, Federal and State Constitutions, Vol. 2, pp. 1509-1515.

CHARLES the Second, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To all whom these presents shall come, *Greeting* . . . KNOW YE THEREFORE, That Wee . . . Doe . . . Grant unto the said *William Penn* . . . all that . . . Land in *America* . . . bounded on the East by *Delaware River*, from twelve miles distance Northwards of *New Castle Towne* unto the three and fortieth degree of Northerne Latitude, if the said River doeth extende so farre Northwards; But if the said River shall not extend soe farre Northward, then by the said River . . . and from the

head of the said River, the Easterne Bounds are to bee determined by a Meridian Line . . . unto the said three and fortieth Degree. The said Lands to extend westwards five degrees in longitude, to bee computed from the said Easterne Bounds; and the said Lands to bee bounded on the North by the beginning of the three and fortieth degree of Northern Latitude, and on the South by a Circle drawne at twelve miles distance from *New Castle* Northward and Westward unto the beginning of the fortieth degree of Northern Latitude, and then by a streight Line Westward to the Limitt of Longitude above-mentioned . . . AND him, the said *William Penn*, his heires and assigns, Wee doe by this Our Royall Charter . . . constitute the true and absolute Proprietarie of the Countrey aforesaid . . . Saving alwayes to Us . . . the Faith and Allegiance of the said *William Penn* . . . and . . . the Sovereignty of the aforesaid Countrey . . . to bee holden of Us, Our heires and Successors, Kings of *England*, as of Our Castle of *Windsor* in Our County of *Berks*, in free and comon Socage, by fealty only for all Services, and not *in Capite* or by Knights Service; Yielding and paying therefore to Us . . . Two Beaver Skins, to bee delivered at Our said Castle of *Windsor* on the First Day of *January* in every Year; and also the Fifth Part of all Gold and Silver Oare, which shall from Time to Time happen to bee found within the Limitts aforesaid, cleare of all Charges. And . . . We doe hereby erect the aforesaid Countrey and Islands into a Province and . . . call itt PENSILVANIA. . .

. . . OUR further will and Pleasure is, that a . . . Duplicate of all Lawes, which shall bee . . . made . . . within the said Province, shall within five yeares after the makeing thereof, be transmitted . . . to the Privy Councell . . . And if any of the said Lawes, within the space of six moneths after that they shall be so . . . delivered, bee declared by us . . . inconsistent with the Sovereignty . . . of us . . . or contrary to the Faith and Allegiance due . . . from the said *William Penn* . . . that then . . . such Lawes . . . shall become voyd. . .

. . . FURTHERMORE . . . wee . . . doe . . . grant . . . Licence . . . unto all the . . . Subjects . . . of us . . . excepting those who shall bee Specially forbidden to transport themselves and Families unto the said Countrey. . .

. . . Wee doe . . . grant Licence . . . unto the said *William Penn* . . . and to all the inhabitants . . . in the Province . . . to import . . . all merchandizes and goods whatsoever . . . of the said Province . . . into any of the ports of . . . our Kingdome of *England*, and not into any other Countrey whatsoever: And wee give him full power to dispose of the said goods in the said ports; and if need bee, within one yeare

next after the unladeing of the same . . . to export the same into any other Countreys, either of our Dominions or floreigne, according to Lawe: Provided alwayes, that they pay such customes . . . as the rest of our Subjects of our Kingdome of *England* . . . and doe observe the Acts of Navigation, and other Lawes in that behalfe made. . .

AND it is Our further Will and pleasure, that the said *William Penn*, his heires and assignes, shall . . . appoint an Attorney or Agent, to Reside in or neare our City of *London*, who shall make knowne the place where he shall dwell . . . and shall be ready to appeare in any of our Courts att *Westminster*, to Answer for any Misdemeanors that shall be comitted, or . . . permitted by the said *William Penn*, his heires or assignes, against our Lawes of Trade or Navigation; and after it shall be ascertained in any of our said Courts, what damages Wee . . . shall have sustained by such default or neglect, the said *William Penn* . . . shall pay the same within one yeare after such taxation . . . or in case there shall be noe such Attorney by the space of one yeare, or such Attorney shall not make payment of such damages within the space of one yeare, and answer such other forfeitures and penalties within the said time, as . . . shall be provided . . . then it shall be lawful for us, our heires and Successors, to seize and Resume the government of the said Province or Countrey. . .

AND FURTHER our pleasure is, and . . . Wee doe . . . grant . . . That Wee . . . shall at no time hereafter . . . sett, any impossition, custome or other taxation . . . whatsoever . . . upon the . . . inhabitants of the aforesaid Province, for their Lands, tenements, goods or chattells within the said Province, or upon any goods or merchandize within the said Province . . . unless the same be with the consent of the Proprietary, or chiefe governor, and assembly, or by act of Parliament in *England*. . .

IN WITNESS whereof wee have caused these our Letters to be made patents: Witness OUR SELFE, at *Westminster*, the *Fourth* day of *March*, in the *Three* and *Thirtieth* Yeare of Our Reign.

By Writt of Privy Seale,

PIGOTT.

14. LA SALLE ON THE MISSISSIPPI

The following is extracted from the official record of La Salle's famous exploration, made by the notary, Jacques de la Metairie.

Published in Historical Collections of Louisiana and Florida, Second Series, pp. 18-27. New York, 1875.

ON the 27th of December, 1681, *M. de la Salle* departed on foot to join *M. de Tonty*, who had preceded him with his followers and all his equipage forty leagues into the *Miamis* country, . .

At length, all the *French* being together, on the 25th of January, 1682, we came to Pimiteoui. [Peoria] From that place, the river being frozen only in some parts, we continued our route to the River Colbert (Mississippi) . . . We reached the banks of the River Colbert on the 6th of February, and remained there until the 13th, waiting for the Indians, whose progress had been impeded by the ice. On the 13th, all having assembled, we renewed our voyage, being twenty-two Frenchmen, carrying arms, accompanied by the Reverend Father Zenobe Membré and one of the Recollect missionaries, and followed by eighteen New England savages and several women, Algonquins, Otchepóse, and Hurons.

On the fourteenth, we arrived at the village of Maroa, consisting of a hundred cabins, without inhabitants. . .

On the 12th of March, we arrived at the *Kapaha* village, on the Arkansas. Having established a peace there, and taken possession, we passed, on the 15th, another of their villages, situated on the border of their river, and also two others, farther off in the depth of the forest, and arrived at that of Imaha, the largest village of this nation, where peace was confirmed, and where the chief acknowledged that the village belonged to his Majesty. . .

On the 20th we arrived at the Taensas, by whom we were exceedingly well received, and who supplied us with a large quantity of provisions. *M. de Tonty* passed a night at one of their villages, where there were about seven hundred men carrying arms, assembled in the place. Here again a peace was concluded. A peace was also made with the Koroas, whose chief came there from the principal village of the Koroas, ten leagues distant from that of the Natchez. The two chiefs accompanied *M. de la Salle* to the banks of the river. Here the Koroa chief embarked with him (on Easter Sunday, the 29th of March), to conduct him to his village, where peace was again concluded with this nation, which, besides the five other villages of which it is composed, is allied to nearly forty others. On the 31st we passed the village of the Oumas without knowing it, on account of the fog, and its distance from the river.

On the 3d of April, at about ten o'clock in the morning, we saw, among the canes, thirteen or fourteen canoes. *M. de la Salle* landed, with several of his people. Footprints were seen, and also savages, a little lower down, who were fishing, and who fled precipitately as soon as they discovered us. . . We continued our voyage until the 6th, when

we discovered three channels, by which the River Colbert discharges itself into the sea. We landed on the bank of the most western channel, about three leagues from its mouth. On the 7th, M. de la Salle went to reconnoiter the shores of the neighboring sea (Gulf of Mexico), and M. de Tonty examined the great middle channel. They found these three outlets beautiful, large, and deep.

On the 8th we reascended the river, a little above its confluence with the sea, to find a dry place beyond the reach of inundation. The elevation of the north pole was here about 27° . Here we prepared a column and a cross, and to the said column were affixed the arms of France with this inscription:

LOUIS LE GRAND, ROI DE FRANCE ET DE
NAVARRÉ, RÈGNE; LE NEUVIÈME
AVRIL, 1682

The whole party under arms chanted the *Te Deum*, the *Exaudi*, the *Domine Salvum fac Regem*; and then, after a salute of fire-arms and cries of *Vive le Roi*, the column was erected by M. de la Salle, who, standing near it, said with a loud voice in French: 'In the name of the most high, mighty, invincible, and victorious Prince, LOUIS THE GREAT, by the grace of God, King of France and Navarre, fourteenth of that name, this ninth day of April, one thousand six hundred and eighty-two, I, in virtue of the commission of his Majesty (Louis XIV.) which I hold in my hand, and which may be seen by all whom it may concern, have taken, and do now take in the name of his Majesty and of his successors to the crown, possession of this country of Louisiana, . . and all the nations, people, provinces, cities . . streams, and rivers comprised in the extent of Louisiana, from the mouth of the great River St. Louis on the eastern side, otherwise called Ohio . . and this with the consent of the Chouanons (Shawanoes), Chicachas (Chicasaws), and other people dwelling therein, with whom we have made alliance; as also along the River Colbert or Mississippi, and rivers which discharge themselves therein, from its source; beyond the country of the Kious (Sioux) or Nadouessions, and this with their consent, and with the consent of the Motantees, Illinois, . . which are the most considerable nations dwelling therein, with whom also we have made alliance either by ourselves or by others in our behalf; as far as the mouth at the sea or Gulf of Mexico, about the 27th degree of the elevation of the north pole, and also to the mouth of the river of Palms (Rio de Palmas); upon the assurance which we have received from all these nations that we are the first Europeans who have descended or ascended the River Colbert, hereby protesting against all those who may in future undertake to invade any or all of these

countries, people, or lands above described to the prejudice of the right of his Majesty acquired by the consent of the nations herein named, of which and all that can be needed, I hereby take to witness those who hear me, and demand an act of the notary as required by law.

To which the whole assembly responded with shouts of *Vive le Roi* and with salutes of fire-arms. Moreover, the said Sieur de la Salle caused to be buried at the foot of the tree to which the cross was attached a leaden plate, on one side of which were engraved the arms of France and the following Latin inscription:

LVDOVICVS MAGNVS REGNAT.
NONO APRILIS CIO IOC LXXXII.

ROBERTVS CAVELIER, CVM DOMINO DE TONTY, LEGATO R. P. ZENOBIO MEMBRÈ, RECOLLECTO, ET VIGINTI GALLIS, PRIMVS HOC FLVMEN, INDE AB ILINEORVM PAGO, ENAVIGAVIT, EJVSQUE OSTIVM FECIT PERVIVM, NONO APRILIS ANNI CIO IOC LXXXII.

After which the Sieur de la Salle said that his Majesty, as eldest Son of the Church, would annex no country to his crown without making it his chief care to establish the Christian religion therein, and that its symbol must now be planted, which was accordingly done at once by erecting a cross, before which the *Vexilla* and the *Domine Salvum fac Regem* were sung, whereupon the ceremony was concluded with cries of *Vive le Roi*. Of all and every of the above the said Sieur de la Salle having required of us an instrument, we have delivered to him the same signed by us, and by the undersigned witnesses, this ninth day of April, one thousand six hundred and eighty-two.

LA METAIRIE,
Notary.

15. THE ESTABLISHMENT OF THE BOARD OF TRADE

May 15, 1697, by the following document, the Board of Trade was established; with most indifferent results it and its successors for three-quarters of a century labored to settle Great Britain's control of her colonies.

O'Callaghan, Documents Relative to the Colonial History of the State of New York, Vol. 4, pp. 145-148. Albany, 1854.

WILLIAM the Third by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith &c. . .

Whereas We are extremely desirous that the Trade of Our Kingdom of England, upon which the strength and riches thereof do in a great measure depend, should by all proper means be promoted and advanced; And Whereas We are perswaded that nothing will more effectually contribute thereto than the appointing of knowing and fitt persons to inspect and examin into the general Trade of our said Kingdom and the severall parts thereof, and to enquire into the severall matters and things herein after mentioned relating thereunto, with such Powers and Directions as are herein after specified and contained.

KNOW YEE therefor that We reposing espetiall Trust and Confidence in your Discretions, Abilites and Integrities, Have nominated, authorized and constituted... the... Keeper of Our Great Seale or Chancellor for the time being, The President of our Privy Council... The Keeper of our Privy Seale... The First Commissioner of Our Treasury... The First Commissioner for executing the Office of Admirall and Our Admirall... Our Principall Secretarys of State... And our Chancellor of the Exchequer... And you John Earl of Bridgewater, Ford Earl of Tankerville, Sir Philip Meadows, William Blathwayte, John Pollexfen, John Locke, Abraham Hill, and John Methwen, or any other three or more of you, to be Our Commissioners during our Royal Pleasure, for promoting the Trade of our Kingdome, and for Inspecting and Improving our Plantations in America and elsewhere... OUR WILL AND PLEASURE is, .. That you so diligently and constantly as the nature of the service may require, meet together at some convenient Place in our Palace of Whitehall which we shall assigne for that purpose. . .

And we... require you... to consider of... employing the Poore of Our... Kingdome, and making them useful to the Publick... As also to consider of the best and most effectual means to regaine, encourage and establish the Fishery of this Kingdom.

AND OUR FURTHER WILL AND PLEASURE is, that you... make representations touching the Premisses to Us, or to Our Privy Council, as the nature of the Business shall require... .

And We... require you... to take into your care all Records, Grants and Papers remaining in the Plantation Office or thereunto belonging.

And likewise to inform your selves of the present condition of Our respective Plantations, as well with regard to the Administration of the Government and Justice in those places, as in relation to the Commerce thereof; And also to inquire into the Limits of Soyle and

Product of Our severall Plantations and how the same may be improved, and of the best means for easing and securing Our Colonies there, and how the same may be rendred most usefull and beneficiall to our said Kingdom of England.

And We...require you...to inform yourselves what Navall Stores may be furnished from Our Plantations, and in what Quantities, and by what methods Our Royall purpose of having our Kingdom supplied with Navall Stores from thence may be made practicable and promoted; And also to...inform your selves of the best and most proper methods of settling and improving in Our Plantations, such other Staples and other Manufactures as Our subjects of England are now obliged to...supply themselves withall from other... States; ..and what Trades are taken up and exercised there, which... may prove prejudiciall to England, by furnishing themselves or other Our Colonies with what has been usually supplied from England; And to finde out proper means of diverting them from such Trades, and whatsoever else may turne to the hurt of Our Kingdom of England.

And to examin and looke into the usuall Instructions given to the Governors of Our Plantations, and to see if any thing may be added, omitted or changed therein to advantage...

And We...impower you...to examin into...such Acts of the Assemblies of the Plantations respectively as shall...be sent... hither for Our Approbation; And to set down...the Usefulness or Mischeif thereof...to Our said Kingdom of England, or to the Plantations themselves, in case the same should be established for Lawes there; And also to consider what matters may be recommended as fitt to be passed in the Assemblys there, To heare complaints of Oppressions and maleadministrations, in Our Plantations, in order to represent as aforesaid what you in your Discretions shall thinke proper; And also to require an Account of all Monies given for Publick uses by the Assemblies in Our Plantations...

And We...impower you...to send for Persons and Papers, for your better Information in the Premisses; and as Occasion shall require to examin Witnesses upon Oath...

And We do hereby further declare...that We do not...intend that Our Chancellor of England or Keeper of Our great Seale... The President of Our Privy Councill... The Keeper of Our Privy Seale... The Treasurer or first Commissioner of Our Treasury... Our Admirall or first Commissioner for executing the Office of Admirall... Our Principall Secretarys of State... or Our Chancellor of the Ex-

chequer for the time being, should be obliged to give constant attendance at the meeting of Our said Commissioners, but only so often and when the presence of them or any of them shall be necessary and requisite, and as their other Publick service will permit. . .

16. THE FOUNDING OF LOUISIANA

The following account is that of de la Harpe, a French officer who served in Louisiana 1718–1723.

Historical Collections of Louisiana, Part 3, pp. 10–58. New York, 1851.

ON the 24th September, 1698, two frigates, *Le Badine*, of thirty guns and two hundred men, commanded by M. d'Iberville; and *Le Marin*, of thirty guns commanded by M. le Comte de Surgère, with two store-ships, were fitted out by order of the King, and sailed from Rochefort to plant a colony on the Mississippi. On the 4th December, they arrived at Cape Francois, St. Domingo, where they found M. le Marquis de Chateaurant, who commanded the frigate *Le Français*, of fifty guns, to whom M. d'Iberville delivered instructions for him to join in the expedition to the Mississippi river. At this port they took on board M. de Grave, a famous bucaneer who had some years before surprised and pillaged the town of Vera Cruz. On the 22d they left the Cape to rendezvous at *Leogane*, where they arrived on the 25th. . .

On the 6th of February, M. d'Iberville anchored off the pass, between Horn and Ship Island, which he named; and finding it difficult to enter this channel, he sailed four leagues further to the west, where he discovered the Chandeleur Islands. He anchored abreast of them and Ship Island, and ordered the channel between the Ship and Cat Islands to be sounded. . . On the 12th they captured a woman, who, flattered by their kind treatment, persuaded her nation to approach them. They were the Biloxis, after whom the bay was called. On the 13th M. d'Iberville took four on board his ship, and left his brother Bienville a hostage until their return. On the same day eighty Bayagoula Indians, who were going on an expedition to fight the Mobileans, arrived at the bay. They informed us that they lived on the banks of a great river (the Mississippi) to the west.

On the 27th M. d'Iberville and Bienville embarked in two feluccas, with Father Anatase and thirty men each, to explore the mouths of the

Mississippi river. On the 2d of March they entered a large river, which Father Anastase, who had accompanied M. de la Salle, recognized as the Mississippi from the appearance of its turbid waters... On the 14th they arrived at the Bayagoula and Mongoulacha nations, numbering about eight hundred warriors. They found here several cloth cloaks, which had been given them by M. de la Salle. These nations received them very kindly, and gave them some chickens to eat, which they said had come from a ship that had been wrecked upon the coast about four years before. M. d'Iberville was still uncertain whether it was the Mississippi, having met with no Indians which had been described by M. de la Salle,... It was here, while looking for Father Anatase's breviary, they found several prayer books in an Indian basket, in which were written the names of several Canadians who had accompanied the late M. de la Salle down the river; together with a letter addressed to him by Chevalier de Tonty, informing him "that having learned of his departure from France to form a settlement on this river, he had descended it as far as the sea with twenty Canadians and thirty Chouanans," from the neighborhood of the Ouabache. This discovery now relieved them from all doubts of the river they were in, and they ascertained the mouth of the Mississippi to be in about twenty-nine degrees north latitude. A coat of mail was also found here, which the Indians said had once belonged to Ferdinand de Soto. M. d'Iberville... concluded to fix his settlement at Biloxi. Here he built a fort with four bastions, which he mounted with twelve cannons, and gave the command of it to his brothers Sauvolle and Bienville; and having manned it with a force of thirty-five men, he set sail for France on the 4th May...

On the 1st of July, two bark canoes from the Illinois arrived at Biloxi, bringing MM. de Martigny and Davion, Missionaries, who had learned from the Houmas that there were some French settlements on the sea-shore. On the 11th these missionaries departed from Biloxi to take possession of the mission house of the Tonicas, on the Yazoo river... September... the 16th he discovered in one of the bends of the Mississippi, twenty-eight leagues from the sea, an English ship of sixteen guns, commanded by Captain Barr, whose purpose was to examine the river and afterwards return to Carolina, to fit out an expedition to establish a settlement here... M. de Bienville informed Captain Barr that this was not the Mississippi river, but a dependence of Canada, which he had taken possession of in the name of his King; that it was farther to the west; whereupon the English captain set sail in search of it... on the 7th December, a salute was

fired at the Fort, announcing the arrival of MM. d'Iberville and La Surgère, in the ships *Renommé* of fifty, and the *Gironde* of forty-six guns, with many officers and passengers, among whom were MM. Dugué, Lasourdy, Hautmaison, Boisbriant, Saint Denis, and sixty Canadians. . .

M. d'Iberville was informed of the attempt of the English to find the Mississippi, and he resolved to make a settlement on its banks. He accordingly set sail in two shallops, with fifty men, and arrived in the river on the 15th January, 1700. He had previously sent M. de Bienville to the Bayagoulas to procure guides, and to select a place above inundation. They conducted him to a ridge of high land, at a distance of about eighteen leagues from the sea. Four days after, M. d'Iberville arrived there and commenced building a fort. On the 16th February, M. de Tonty descended the Mississippi from Canada in a pirogue, to discover whether any settlements had been made. . .

On the 22d [March] M. de Bienville set out with M. de Saint Denys and twenty Canadians and Indians, to visit the Yatase nation, on Red River, and watch the Spaniards, and on the same day, M. d'Iberville set out for the fleet. On the 27th he was informed that Don Andre de la Riole, Governor of Pensacola, had entered the harbor of Ship Island, with a ship of twenty-four guns, one tender, and a shallop, with the design of breaking up the French colony. He was met by some of the King's vessels and compelled to retreat; not however without first making a protest, and sending it to M. de Surgère, declaring that Louisiana was a part of Mexico, and belonged to his Catholic Majesty.

On the 15th April, M. d'Iberville reached his ship, and was informed that the Spanish Governor, on leaving Ship Island, lost his ship on one of the Chandeleur Islands, where a part of his crew saved themselves, and were taken to Pensacola. . .

M. de Bienville received orders by the shallop to evacuate Biloxi, and remove to Mobile river. On the 5th January, 1701, M. de Bienville took up his march for Mobile river, leaving but twenty men under the command of M. de Boisbrant to man the fort. . . In March, 1711, the settlement of Mobile was inundated, and M. d'Artaguette proposed to M. de Bienville to remove their quarters eight leagues above, at the entrance of the river, which was accordingly done. . .

In the month of August, 1717, a company was formed in France under the title of the "western Company." At this period there were in the colony seven hundred persons, and four hundred head of cattle. They had entirely neglected to cultivate the land. The garrison and inhabitants continued to trade with the Indians and the Spaniards at

Pensacola, which produced a revenue of about \$12,000 per annum. This trade being considered very prejudicial to the prosperity of the colony, it was proposed to form plantations on the banks of the Mississippi to cultivate tobacco, rice, silk, and indigo, as well as to furnish masts, pitch, and tar to France and the West India Islands. The affairs of the colony were in this situation on the 9th February, 1718, when three ships of the "Western Company,"... arrived at Dauphin Island... M. de Bienville was appointed Governor General, with a salary of 6,000 livres per annum. M. Hubert, Director-General, with a salary of 5,000 livres per annum. . . In February, 1718, M. de Bienville set out to select a place on the banks of the Mississippi for his head quarters, which now bears the name of New Orleans, about thirty leagues from the sea, and which communicates with lake Pontchartrain, by the bayou Saint John.

17. NEW ENGLAND IN 1720

The following extract is from the description of New England in Daniel Neal's History of New England. Neal was an English dissenter, author of a history of the Puritans.

Daniel Neal, History of New England, Vol. 2, pp. 192-255. London, 1747.

NEW-ENGLAND is that Part of the Continent of *America*, which lies between the Degrees of 41 and 45, North Latitude. Under this Name is usually comprehended the Colonies of the *Massachuset-Bay*, *New-Plimouth*, and *Connecticut*; the Provinces of *Main*, *New-Hampshire*, *Rhode-Island*, *Providence-Plantation*, and *Accadia*, or *New-Scotland*...

The Climate of *New-England* is not so temperate as ours in *England*, their Summers being shorter and hotter, and their Winters longer and colder; nor is it so mild and regular as those Parts of *Italy* and *France*, that lie in the same Parallel in *Europe*...'Tis certain however, that the Weather is more settled than in *England*, for it is common with them to have a clear and dry Sky for six Weeks or two Months together. In the Winter the Ground is for the most Part covered with Snow from *November* to *February*, and in the Summer the Heats are so excessive in the Months of *June*, *July* and *August*, that when a Fire has been accidentally made in the Woods, and not carefully put out, it has run like Wild-Fire, and burnt the Turf and

Trees over several Acres of Ground, till Rain has fallen to extinguish it...

When the *English* first landed on the Coast the Country looked like one vast Wood, the *Indians* having only cleared here and there a small Spot of Ground for planting Corn; but upon a narrower Survey they found every three or four Miles a fruitful Valley, with a clear fresh Rivulet or Brook gliding through it, and these again were surrounded with vast woody Hills, which afforded a very agreeable Prospect... The Soil is generally fruitful, but in some Places more so, than in others; about the *Massachuset-Bay* 'tis as flat and black as in any Part of *England*, and consequently as fruitful. The first Planters found the Grass in the Vallies above an Ell in Height, and consequently, pretty rank, for want of cutting; but their Cattle eat it, and thrive very well with it. Mr. *Higginson* has a remarkable Story relating to the Fruitfulness of the Soil in the *Massachuset-Bay*: "Credible Persons have informed me, (says he) and the Party himself avouched the Truth — of it to me, that of the setting 13 Gallons of Corn, he had 52 Hogsheads Increase, each Hogshead holding Seven Bushels of *London* Measure; that he sold every Bushel to the *Indians* for so much Beaver, as was worth 18 Shillings: So that of 13 Gallons of Corn, which cost him 6s. 8d. he made about 327*l.* in a Year's Time." But though this might be true of some particular Spots of Ground, 'tis certain the Soil in general is not so fruitful, nor capable of producing such Crops of Corn, as the more Southern Plantations of *Carolina*, *Maryland*, and *New York*. The Uplands more especially being for the most Part Gravel, sandy, or somewhat stronger, inclining to a Clay-Ground, can but little more than maintain themselves...

New-England produces very good Timber; the Woods and Swamps abound with Oak, Elm, Ash, Cypress, Pine, Chestnut, Walnut, Cedar, Aspin, Beech, Fir, Sassafras, and Sumach, with all other Sorts of Trees that grow in *England*. Their Fir and Deal is of an extraordinary Growth, for Masts, Yards, and Planks; the Sumach is of Use to Dyers and Tanners; the She-Cedar produces sweet Gums: But the Treasure and Glory of their Woods is the Monarch-Oak, the Spruce and Fir-Tree, which produce Pitch, Tar, Rosin, and Turpentine; so that the Navy of *England* might be supplied from hence with all Sorts of Naval-Stores, at a cheaper Rate than from the *Baltick*. 'Tis owing to this, that more Ships have been built in this Province, than in all the other Parts of *America* put together...

The Province of the *Massachuset-Bay* contains, besides its ancient Limits, the whole Jurisdiction of *Plimouth*, the Province of *Maine*, and the Territory of *Accadia*, or *Nova Scotia*; in the *Plimouth* Divi-

sion there are three Counties, *Plimouth*, *Barnstable* and *Bristol*; in the ancient *Massachuset* Division four, *Suffolk*, *Middlesex*, *Essex* and *Hampshire*.

The United Colonies of *Connecticut* and *New-Haven*, are a distinct Government, by Virtue of a Charter granted them by King *Charles II.* in 1664, and contains four Counties, *Hartford*, *New-London*, *New-Haven*, and *Fairfield*.

New Hampshire Government has no Charter, their Governor and Council being appointed by the Crown of *England*, but their Governor is always the same with the *Massachusetts*. Within the Limits of this Province is the County of *Main*, which belongs to the *Massachusetts Bay*, and sends Members to the General Assembly.

Rhode-Island and *Providence-Plantation* are likewise a distinct Government, but are always reckon'd a Part of *New-England*...

Rhode-Island lies upon the Borders of this County, but is now a distinct Government, King *Charles* the Second after his Restoration having granted the Inhabitants a Charter; it...lies in the *Narrhaganset-Bay*, being fourteen or fifteen Miles long, and about four or five broad; it was first inhabited by the Sectaries who were banished from *Boston* in the Year 1639, and has been the Asylum of such Persons ever since; . . As for the Place, 'tis deservedly called the Paradise of *New-England*, for the Fruitfulness of the Soil, and Temperateness of the Climate, which though it be not above sixty-five Miles South of *Boston*, is a Coat warmer in Winter, and being surrounded by the Ocean, is not so much affected in Summer with the hot Land Breezes, as the Towns on the Continent are.

Providence and *Warwick*, two large Towns in the *Narrhaganset* County upon the Continent, are under this Government and have the least Appearance of Order of any Towns in *New-England*. The Inhabitants of these Places are likewise the Descendants of those Sectaries who were banished the *Massachuset*-Jurisdiction between the Year 1630 and 1640, as the Reader has observed in the foregoing History; but they now live in great Amity with their Neighbours, and though every Man does what he thinks right in his own Eyes, it is rare that any notorious Crimes are committed by them, which may be attributed in some Measure to their great Veneration for the Holy Scriptures, which they read from the least to the greatest, though they have neither Ministers nor Magistrates to recommend it to them. They have an Aversion to all Sorts of Taxes, as the Inventions of Men to support *Hirelings*, as they call all such Magistrates and Ministers as won't serve them for nothing. They are very hospitable to Strangers; a Traveller passing through these Towns may call at any House with

the same Liberty as if he were in an Inn, and be kindly entertained with the best they have for nothing. The raising of Cattle, and making Butter and Cheese is their chief Employ, by which they have very much enriched themselves. The Society for propagating the Gospel after the Manner of the Church of *England* have lately planted a Missionary in these Parts (*viz.*) the Reverend Mr. *Guy*, to whom they allow 70*l.* *per Annum*...

Upon the whole, *New-England* is a Country furnished with all the Necessaries and Conveniences of Life; though it must be acknowledged, that the vast Improvements that have been made in it beyond the neighbouring Provinces, are not owing so much to the Richness of the Soil, or any extraordinary Produce of the Country, as to the hard Labour and Industry of the Inhabitants; but the Country is yet capable of considerable Improvements, if they had but Money and Hands to do it with...

The Laws of the Country against Prophaneness and Immorality are strictly put in Execution, insomuch that there is as great an Appearance of Sobriety and Virtue in *New-England*, as in any Place in the World: There are no Games, nor Plays; Swearing, Drunkenness, and all Sorts of Debauchery are out of Fashion, so that a Rake that goes thither from Europe is not only out of his Element, but will find no Persons of Reputation or Character to keep him Company; there are no idle Vagabonds, not so much as a Beggar in the whole Country, which is owing in Part to the Religious Care of the *New-English* Planters in the Education of their Youth, for every Town of fifty Families is obliged by Law to maintain a School for Writing and Reading; and every Town of an hundred Families a Grammar-School; so that there is hardly a Child of nine or ten Years old throughout the whole Country, but can read and write, and say his Catechism. Upon the whole, the People of *New-England* are a sober and industrious People, strict in their Morals, and very regular in their Lives; they have as much Knowledge and good Sense in Religion as any of their Neighbours, and value themselves as much upon it.

Their Customs and Manners are much the same with the English; but as their Mode of Worship differs from ours, so they have some Peculiarities, which perhaps the *English* Reader may not be acquainted with; as for Example, they have no *Liturgy* or *Form of Prayer* for publick Worship: They observe no Saints Days, nor any of the Fasts and Feasts of the Church of *England*, or any other Church: But their Grand Festivals are the Day of the annual Election of Magistrates at *Boston*, which is the latter End of *May*; and the Commencement at *Cambridge*, which is the last *Wednesday* in *July*, when Business is

pretty much laid aside, and the People are, as chearful among their Friends and Neighbours, as the English are at *Christmas*.

They have a greater Veneration for the Evening of *Saturday* than for that of the Lord's Day itself, looking upon it more agreeable to the *Mosaic* Institution, which says, *the Evening and Morning were the first Day*; so that all Business is laid aside all over *New-England* by Sun-set, or six a-clock on *Saturday* Night. The Sabbath itself, is kept with great Strictness; no-body being to be seen in the Streets in Time of Divine Service, except the Constables, who are appointed to search all the publick Houses; but in the Evening they allow themselves a great Liberty and Freedom...

But in the Concerns of Civil Life, as in their Dress, Tables and Conversation, they affect to be as much English as possible; there is no Fashion in *London*, but in three or four Months it is to be seen at *Boston*, nay, they are fond of the very Name and Person of an *Englishman*, insomuch that some who have had no great Affection for the People on the Account of their Preciseness, have yet been so agreeably entertained by them, as to leave the Country with Regret. In short, the only Difference between an *Old* and a *New-Englishman* is in his Religion; ..

But after all, it will be impossible for *New-England* to subsist of itself for some Centuries of Years; for though they might maintain themselves against their Neighbours on the Continent, they must starve without a free Trade with *Europe*, the Manufactures of the Country being very inconsiderable; ..

And I must do the People of *New-England* so much Justice as to acquaint the World, that their Inclinations as well as Duty lead them to this; they love the *English* Constitution, and would live and die in the Defence of it. . .

18. A DEFENCE OF NEW ENGLAND'S SELF-GOVERNMENT

In answer to one of the constantly recurring agitations to cut down New England's privileges of self-government in the interest of imperial order, Jeremiah Dummer in A Defence of the New England Charters published in London in 1721 enters the following plea in their behalf.

THE other charge in the bill is, *that they have exercised arbitrary power*. . . I am sure that the charter governments stand clear of it. The thing speaks loudly for itself . . . all officers civil and military are

elected by the people, and that annually; than which constitution nothing under heaven can be a stronger barrier against arbitrary rule. For should it be allowed, that the people, *corrupted* or *deceived*, might instead of wise magistrates chuse tyrants and oppressors to lord over them one year; yet it can't be imagined, that after they have felt the smart of it, they will do so the next. . . Hence the frequent choice of magistrates has been a main pillar, upon which all who have aimed at freedom in their schemes of government have depended . . . the fact is apparent, that these governments, far from retrenching the liberty of the subject, have improved it in some important articles, . .

To instance in a few: There has been from the beginning an office erected by law in every county, where all conveyances of land are entered at large, after the grantors have first acknowledged them before a justice of peace; by which means much fraud is prevented, . . Provision has likewise been made for the security of the life and property of the subject in the matter of juries, who are . . . chosen by the inhabitants of the town . . . And this election is under the most exact regulation, in order to prevent corruption, . .

Redress in their courts of law is easy, quick and cheap. All processes are in English, . . and in this case a man is not liable to lose his estate for a defect in form, . . By a law of the country, no writ may be abated for a circumstantial error, such as a slight mis-nomer or any informality. . .

It were easy to mention other articles, but that I persuade myself it is needless. The charter governments are celebrated for their excellent laws, and mild administration; . . To these arts it is owing, that New-England, . . has hitherto flourished far above any other of the plantations. . .

If it were true, that some persons did now and then concern themselves in an illegal trade, can it be thought just or reasonable that the whole community should suffer for their private fault? No body will say that the acts of trade are perfectly observed in the provinces immediately under the crown, or in Great-Britain itself. . .

THERE is one thing more I have heard often urged against the charter colonies, . . 'Tis said, *that their increasing numbers and wealth, joined to their great distance from Great Britain, will give them an opportunity, in the course of some years, to throw off their dependance on the nation, and declare themselves a free state, if not curbed in time, by being made entirely subject to the crown.* Whereas in truth there is no body, though but little acquainted with these, or any of the northern plantations, who does not know and confess, that their poverty

and the declining state of their trade is so great at present, that there is far more danger of their sinking, without some extraordinary support from the crown, than of their ever revolting from it. So that I may say without ludicrous, that it would not be more absurd to place two of his Majesty's beef-eaters to watch an infant in the cradle than it don't rise to cut its father's throat, than to guard these weak infant colonies to prevent their shaking off the British yoke. Besides, they are so distinct from one another in their forms of government, in their religious rites, in their emulation of trade, and consequently in their affections, that they never can be supposed to unite in so dangerous an enterprise. . . It were no difficult task to prove that London has risen out of the plantations, and not out of England. 'Tis to them we owe our vast fleets of merchant ships, and consequently the increase of our seamen, and improvement of our navigation. 'Tis their tobacco, sugar, fish, oil, logwood, and other commodities, which have enabled us to support our trade in Europe, . . and to make the figure we do . . in all parts of the commercial world.

The mother kingdom must therefore needs rejoice in the prosperity of every one of her colonies, because it is her own prosperity. . .

If it be said that the charter colonies are not so valuable as some of the rest, I answer, that the inhabitants have the more need of their charters to make them amends; for the people must have some encouragement to sit down on a cold and barren soil. . . And then I have only to suggest an old approved maxim, *That every thing is best preserved by the same principles by which it was at first formed*, and consequently the best method of encouraging the charter colonies is, to preserve their privileges inviolate, without which they had never been settled. . . The only interest of the people is to thrive and flourish in their trade, which is the true interest of the crown and nation, because they reap the profit of it. . . The trade of a young plantation is like a tender plant, and should be cherished with the fondest care; . . The proper nursery for this plant is a free government, where the laws are sacred, property secure, and justice not only impartially but expeditiously distributed. For to what purpose shall the merchant expose his estate to the danger of the sea, the enemy, and many more accidents, if after all he can't save it at home from rapine and violence?

As this is evident, so it is that whatever injures the trade of the plantations, must in proportion affect Great-Britain, the source and centre of their commerce; from whence they have their manufactures, whither they make their returns, and where all their superlucration is lodged. . .

It seems therefore a severity without a precedent, that a people who have the misfortune of being a thousand leagues from their Sovereign, a misfortune great enough in itself, should UNSUMMONED, UNHEARD, IN ONE DAY be deprived of all their valuable privileges, which they have enjoyed for near an hundred years. It's true, the legislative power is absolute and unaccountable, and King, Lords and Commons may do what they please; but the question here is not about POWER, but RIGHT: *and shall not the supreme legislature of all the nation do right?* One may say, that what the parliament can't do justly, they can't do at all.

19. THE MOLASSES ACT

May 17/28, 1733, in the interest of sugar planters of the British West Indies, the following act was passed; it was intended by a prohibitive duty to limit the continental colonies to the import of molasses products from the British West India islands. It was habitually violated and was actually a dead letter.

Pickering, Statutes at Large, Vol. 16, p. 374. Cambridge, 1765.

WHEREAS the welfare and prosperity of your Majesty's sugar colonies in America are of the greatest consequence and importance to the trade, navigation and strength of this kingdom: and whereas the planters of the said sugar colonies have of late years fallen under ... great discouragements ... be it enacted ... That from and after the twenty fifth day of December one thousand seven hundred and thirty three, there shall be raised ... upon all rum or spirits of the produce of manufacture of any of the colonies or plantations in *America*, not in the possession ... of his Majesty, .. which at any time ... shall be imported ... into any of the colonies ... in *America*, .. under the dominion of his Majesty, .. the sum of nine pence ... for every gallon thereof ... and upon all molasses or syrups of such foreign produce ... as aforesaid, which shall be imported ... into any of the said colonies ... of ... his Majesty, the sum of six pence ... for every gallon thereof, .. and upon all sugars and paneles of such foreign growth ... which shall be imported into any of the said colonies ... a duty ... of five shillings ... for every hundred weight *Avoirdupoize*, of the said sugar and paneles. . .

20. LIFE IN THE MIDDLE COLONIES 1740-49

The following newspaper extracts may illustrate phases of life in the middle colonies before the Revolution.

William Nelson, Documents Relating to the Colonial History of the State of New Jersey, Vol. 12, First Series, pp. 52-583. Patterson, N. J. 1895.

TO BE SOLD BY PUBLICK VENDUE AT THE COFFEE-HOUSE ON FRIDAY THE TENTH DAY OF OCTOBER NEXT.

A CERTAIN TRACT OF LAND SITUATE ON THE BRANCHES OF Tohockanickon River, in Hunterdon County, now Morris County, in the Province of West-New-Jersey, beginning at a white Oak Corner Tree marked M. C. thence extending along Lines of Trees, viz. North ten Degrees East, sixty-six Chains, crossing the said River, to a Corner white Oak standing on a little Hill, thence North twenty-nine Degrees West, one Hundred forty-five Chains to a Corner Post; thence West sixty-two Chains to a Corner black Oak; thence South twenty-five Degrees West, one Hundred and forty-eight Chains to a marked Pine Tree; thence South eighty Degrees East, eighty-six Chains, crossing the said River, to a marked white Oak; thence South twenty-three Degrees East, eighty Chains, to a white Oak; thence North sixty-five Degrees East, by Governor Penn's Land, ninety Chains, to the Place of Beginning, containing Two Thousand Five Hundred and Eleven Acres, and the usual Allowance for Highways.

Any Person inclining to purchase the said Land by applying to White and Taylor in Philadelphia, may be informed as to the Title, and Terms of Payment, and may see a Plan of the said Land in the Hands of Joseph Peace, Esq; of Trenton. — *The Pennsylvania Gazette*, Sept. 11. 1740.

A Jersey Boy's Time for Seven Years, to be sold. Enquire of the Printer. — The Boston Evening-Post, Nov. 24. 1740. No. 277.

New York, Decemb. 15.

Value of Paper Money, or Bills of Credit in the Plantations.

New England, Connecticut, Rhode-Island, New-Hampshire, 525l. New-York, 160l. The Jersey's, 160l. Pennsylvania, 170l. Maryland, 200l. North-Carolina, 1400l. South-Carolina, 800l. for 100l. Sterling. — *The Boston Evening-Post*, Monday, Jan. 12. 1741. No. 284.

Run away on the 4th Instant, from Joshua Brick, of Salem County, an Irish Servant Man, named Andrew Daily, a tall lusty Fellow, of

red Complexion, red Beard, curl'd sandy Hair; Had on when he went away, a Felt Hat, a homespun Shirt, blue broad Cloth Coat Jacket and Breeches, he has taken a pair of Trowsers with him, white cotton Stockings, old Shoes.

Whoever takes up and secures the Servant so that his Master may have him again, shall have Fifty Shillings Reward, and reasonable Charges, paid by

Joshua Brick.

— *The Pennsylvania Gazette*, May 14. 1741.

RAN away, on the 27th of September last, from *William Montgomerie* of *Hunterdon* County, in *New-Jersey*, a Servant Man lately imported from *Scotland* and speaks Scotch, named *Alexander Scrogge*, of middle Stature and well-set, red Hair but cut off and wears a Cap. He took with him a course blue Cloath Coat with flat Brass Buttons, two Jackets of the same one of them without Sleeves, two pair of Yarn Stockings, round to'd Shoes, Oznabrigs Trowsers, a blue Scotch Bonnet, and a Leather Cap.

Whoever takes up and secures the said Servant so that his Master may have him again, shall have *Forty Shillings* as a Reward.

Paid by *William Montgomerie*.

— *The American Weekly Mercury*, Oct. 1-8, 1741.

A likely Jersey Maid-Servants Time for 4 years to be disposed of, Inquire of the Printer. — *The Boston Weekly News-Letter*, Nov 26 to Dec. 3, 1741. No. 195.

Trenton, Jan. 11. Last Friday died here Sarah Furman, a Widow, about 97 Years of age; She was born at Fairfield, in New England; her Maiden-Name was Strickland; her first Husband's Name was Roberts, her second Husband's Name was Furman. Such was her Conduct, in every Station of Life, that she obtain'd, from all her Acquaintance, the Reputation of a good Christian. Her helpless Old-Age, attended with twelve Years Blindness, was rendered easy to all about her, by her Patience and Resignation. She left a numerous Off-spring of her own Body, viz.

Children	5	} living,
Grand Children	61	
Great Grand Children	182	
Great Great Grand Children.....	12	

In all 260

— *The Pennsylvania Gazette*, Jan. 27, 1741, 2.

RAN-away, on the 4th of September last, from George Munrow, of Evesham Township in Burlington County, an Irish Servant Man named John Tool, a short well set Fellow, with short dark-brown Hair and gray Eyes; had on when he went away, a yellowish Olive colour'd Jacket with Brass Buttons, ('tis supposed he has a Coat of the same colour) an Oznabrigs Shirt, old Trowsers, no Stockings, and old Shoes.

Whoever takes up and secures the said Servant so that his Master may have him again, shall have *Five Pounds* Reward and all reasonable Charges.

paid by George Munrow.

— *The American Weekly Mercury*, Oct. 14-21, 1742.

Run away the 15th Instant, from John Williams, of Trenton Ferry, a Negro Man, named James Bell, about 30 Years of Age, middle Stat-ure, speaks very good English, and very Fluent in his Talk; he formerly belonged to Slator Clay. Had on when he went away, an ozenbrigs Shirt, Jacket, and Trowsers, and a new Pair of Shoes. Who-ever takes up the said Negro, shall have Thirty Shillings Reward, and all reasonable Charges, paid by

John Williams.

— *The Pennsylvania Gazette*, May 17, 1744.

WHEREAS a Charter with full and ample Privileges, has been granted by his Majesty, under the Seal of the Province of New-Jersey, bearing Date the 22d October, 1746, for erecting a College within the said Province, to Jonathan Dickinson, John Pierson, Ebenezer Pemberton, and Aaron Burr, Ministers of the Gospel, and some other Gentlemen, as Trustees of the said College; by which Charter equal Liberties and Privileges are secured to every Denomination of Christians, any different religious Sentiments notwithstanding.

The said Trustees have therefore thought proper to inform the Public, that they design to open the said College the next Spring; and to notify to any Person or Persons who are qualified by preparatory Learning for Admission, that some time in May next at latest, they may be there admitted to an Academic Education.

— *The New York Gazette Revived in the Weekly Post Boy*, Feb. 2, 1747.

The Scheme of a LOTTERY in Turkey, in Eliz. Town, to raise a Sum of Money for building a Parsonage-House; consisting of 1450 Tickets, at 14s. each, Money at 8s. per Ounce; 422 of which to be fortunate.

Number of Prizes		Value of each	Total Value
1	of	£30	£30
2	of	15	30
4	of	10	40
5	of	5	25
60	of	3	180
100	of	2	200
250	of	1: 8s.	350
Prizes 422		First drawn	3
Blanks 1028		Last drawn	4: 15s.
1450 Tickets at	From which deduct		862: 15s.
14s. each £1015	15 per Cent		£152: 5s.
			£1015

Any schoolmaster, or mistress, that shall come well recommended to be of a sober behaviour, and can spell well, and write a good common hand, may find encouragement for keeping of a school, by applying to William Foster, near Mountholly, in West-Jersey.

— *The Pennsylvania Gazette*, Nov. 2, 1749.

21. COLONIAL PHILADELPHIA

Philadelphia is here described by Peter Kalm, a Swedish traveller, who visited America in the years 1748-1751.

Peter Kalm, Travels into North America. Translated into English by John Reinhold Forster, Vol. 1, pp. 31-50. Warrington, 1770.

PHILADELPHIA, the capital of *Pensylvania*, a province which makes part of what formerly was called *New Sweden* is one of the principal towns in *North-America*; and next to *Boston* the greatest. It is situated almost in the center of the *English* colonies. . .

THIS town was built in the year 1683, or as others say in 1682, by the well known quaker *William Pen*. . . According to *Pen's* plan the town was to have been built upon a piece of land which is formed by the union of the rivers *Delaware* and *Skulkill*, in a quadrangular form, two *English* miles long and one broad. The eastern side would therefore have been bounded by the *Delaware*, and the western by the *Skulkill*. They had actually begun to build houses on both these rivers. . .

BUT the inhabitants could not be got in sufficient number to fill a place of such extent. The plan therefore about the river *Skulkill* was laid aside till more favourable circumstances should occur, and the houses were only built along the *Delaware*. This river flows along the eastern side of the town, is of great advantage to its trade, and gives a fine prospect. The houses which had already been built upon the *Skulkill* were transplanted hitherto by degrees. This town accordingly lies in a very pleasant country, from north to south along the River. It measures somewhat more than an English mile in length; and its breadth in some places is half a mile or more. The ground is flat and consists of sand mixed with a little clay. Experience has shewn that the air of this place is very healthy.

THE streets are regular, fine, and most of them are fifty foot, *English* measure, broad; *Arch-street* measures sixty six feet in breadth, and *Market-street* or the principal street, where the market is kept, near a hundred. . . Some are paved, others are not; and it seems less necessary since the ground is sandy, and therefore soon absorbs the wet. But in most of the streets is a pavement of flags, a fathom or more broad, laid before the houses, and posts put on the outside three or four fathom asunder. Under the roofs are gutters which are carefully connected with pipes, and by this means, those who walk under them, when it rains, or when the snow melts, need not fear being wetted by the dropping from the roofs.

THE houses make a good appearance, are frequently several stories high, and built either of bricks or of stone; but the former are more commonly used, since bricks are made before the town, and are well burnt. . . This stone is now got in great quantities in the country, is easily cut, and has the good quality of not attracting the moisture in a wet season. Very good lime is burnt every where hereabouts, for masonry.

THE houses are covered with shingles. . . Several people have already in late years begun to make roofs of tiles. . . Of all the natural advantages of the town, its temperate *climate* is the most considerable, the winter not being over severe, and its duration but short, and the summer not too hot; the country round about bringing forth those fruits in the greatest plenty, which are raised by husbandry. . .

THE good and clear water in *Philadelphia*, is likewise one of its advantages. For though there are no fountains in the town, yet there is a *well* in every house, and several in the streets, all which afford excellent water for boiling, drinking, washing, and other uses. The water is commonly met with at the depth of forty feet. . .

THE *Delaware* is exceeding convenient for trade. . . This city lies

within ninety or an hundred *English* miles from the sea... Yet its depth is hardly ever less than five or six fathom. The greatest ships therefore can sail quite up to the town and anchor in good ground in five fathoms of water, on the side of the bridge...

PHILADELPHIA reaps the greatest profits from its trade to the *West Indies*. For thither the inhabitants ship almost every day a quantity of flour, butter, flesh and other victuals; timber, plank and the like. In return they receive either sugar, molasses, rum, indigo, mahogany, and other goods, or ready money...

THEY send both *West India* goods, and their own productions to *England*; the latter are all sorts of woods, especially black walnut, and oak planks for ships; ships ready built, iron, hides and tar... it is to be observed that *England* supplies *Philadelphia* with almost all stuffs and manufactured goods which are wanted here.

A GREAT quantity of linseed goes annually to *Ireland*, together with many of the ships which are built here. *Portugal* gets wheat, corn, flour and maize which is not ground. *Spain* sometimes takes some corn. But all the money, which is got in these several countries, must immediately be sent to *England*, in payment for the goods which are got from thence, and yet those sums are not sufficient to pay all the debts.

22. ACCOUNT OF FRENCH CANADA

The following extracts are from Kalm's Travels; see also No. 21.

Kalm, Travels into North America, Vol. 1, pp. 264-265, Vol. 3, pp. 306-309, 106. London, 1770, 1771.

IT is however of great advantage to the crown of *England*, that the *North American* colonies are near a country, under the government of the *French*, like *Canada*. There is reason to believe that the king never was earnest in his attempts to expel the *French* from their possessions there; though it might have been done with little difficulty. For the *English* colonies in this part of the world have encreased so much in their number of inhabitants, and in their riches, that they almost vie with *Old England*. Now in order to keep up the authority and trade of their mother country, and to answer several other purposes, they are forbid to establish new manufactures, which would turn to the disadvantage of the *British* commerce: they are not allowed to dig for any gold or silver, unless they send them to *England* immediately: they have not the liberty of trading to any parts that do not belong to the *British* dominions, excepting some settled places, and foreign traders

are not allowed to send their ships to them. These and some other restrictions, occasion the inhabitants of the *English* colonies to grow less tender for their mother country. This coldness is kept up by the many foreigners such as Germans, Dutch and French settled here, and living among the *English*, who commonly have no particular attachment to *Old England*; add to this likewise that many people can never be contented with their possessions, though they be ever so great, and will always be desirous of getting more, and of enjoying the pleasure which arises from changing; and their over great liberty, and their luxury often lead them to licentiousness.

I HAVE been told by *Englishmen*, and not only by such as were born in *America*, but even by such as came from *Europe*, that the *English* colonies in *North-America*, in the space of thirty or fifty years, would be able to form a state by themselves, entirely independent on *Old England*. But as the whole country which lies along the sea shore, is unguarded, and on the land side is harassed by the *French*, in times of war these dangerous neighbours are sufficient to prevent the connection of the colonies with their mother country from being quite broken off. The *English* government has therefore sufficient reason to consider the *French* in *North-America*, as the best means of keeping the colonies in their due submission.

THE GOVERNMENT OF CANADA

THE governor-general at *Quebec* is, as I have already mentioned before, the chief commander in *Canada*. Next to him is the intendant at *Quebec*; then follows the governor of *Montreal*, and after him the governor of *Trois Rivières*. The intendant has the greatest power next to the governor-general; he pays all the money of government, and is president of the board of finances, and of the court of justice in this country. He is, however, under the governor-general; for if he refuses to do any thing to which he seems obliged by his office, the governor-general can give him orders to do it, which he must obey. He is allowed, however, to appeal to the government in France. In each of the capital towns, the governor is the highest person, then the lieutenant-general, next to him a major, and after him the captains. The governor-general gives the first orders in all matters of consequence. When he comes to *Trois Rivières* and *Montreal*, the power of the governor ceases, because he always commands where he is. The governor-general commonly goes to *Montreal* once every year, and mostly in winter; and during his absence from *Quebec*, the lieutenant-general commands there. When the governor-general dies, or goes to *France*,

before a new one is come in his stead, the governor of *Montreal* goes to *Quebec* to command in the mean while, leaving the major to command at *Montreal*. . . The inhabitants of *Canada* pay very little to the king. In the year 1748, a beginning was, however, made, by laying a duty of three *per cent.* on all the *French* goods imported by the merchants of *Canada*. A regulation was likewise made at that time, that all the furs and skins exported to *France* from hence, should pay a certain duty; but what is carried to the colonies pays nothing. . . The walls round *Montreal* were built in 1738, at the king's expence, on condition the inhabitants should, little by little, pay off the cost to the king. . . The beaver trade belongs solely to the *Indian* company in *France*, and nobody is allowed to carry it on here, besides the people appointed by that company. Every other fur trade is open to every body. . . The king keeps the *Niagara* trade all to himself. Every one who intends to go to trade with the *Indians* must have a licence from the governor-general, for which he must pay a sum according as the place he is going to is more or less advantageous for trade. . .

.....

THE bishop, whose see is in the city, is the only bishop in *Canada*. His diocese extends to *Louisiana*, on the *Mexican* gulf southward, and to the south-seas westward.

No bishop, the pope excepted, ever had a more extensive diocese. But his spiritual flock is very inconsiderable at some distance from *Quebec*, and his sheep are often many hundred miles distant from each other. . .

23. THE ALBANY PLAN OF UNION

The imminence of hostilities between France and England in America caused the summoning in 1754 of a Congress at Albany of deputies from the colonies to confer with the chiefs of the two Nations. A committee headed by Benjamin Franklin had meanwhile drawn a project for united action among the colonies. It satisfied neither imperial nor colonial authorities. It does, however, stand as one of the steps toward colonial union, one of the attempts to grapple with its problems.

Jared Sparks, The Works of Benjamin Franklin, Vol. 3, pp. 36-55. Boston, 1840.

IT is proposed, that humble application be made for an act of Parliament of Great Britain, by virtue of which one general government

may be formed in America, including all the said colonies, within and under which government each colony may retain its present constitution, except in the particulars wherein a change may be directed by the said act, as hereafter follows.

That the said general government be administered by a President-General, to be appointed and supported by the crown; and a Grand Council, to be chosen by the representatives of the people of the several colonies met in their respective Assemblies. — who shall meet for the first time at the city of Philadelphia in Pennsylvania, being called by the President-General as soon as conveniently may be after his appointment.

That there shall be a new election of the members of the Grand Council every three years; and, on the death or resignation of any member, his place should be supplied by a new choice at the next sitting of the Assembly of the colony he represented.

That after the first three years, when the proportion of money arising out of each colony to the general treasury can be known, the number of members to be chosen for each colony shall from time to time, in all ensuing elections, be regulated by that proportion, yet so as that the number to be chosen by any one province be not more than seven, nor less than two.

That the Grand Council shall meet once in every year, and oftener if occasion require, at such time and place as they shall adjourn to at the last preceding meeting, or as they shall be called to meet at by the President-General on any emergency; he having first obtained in writing the consent of seven of the members to such call, and sent due and timely notice to the whole.

That the Grand Council have power to choose their speaker; and shall neither be dissolved, prorogued, nor continued sitting longer than six weeks at one time, without their own consent or the special command of the crown.

That the members of the Grand Council shall be allowed for their service ten shillings sterling per diem, during their session and journey to and from the place of meeting; twenty miles to be reckoned a day's journey.

That the assent of the President-General be requisite to all acts of the Grand Council, and that it be his office and duty to cause them to be carried into execution.

That the President-General, with the advice of the Grand Council, hold or direct all Indian treaties, in which the general interest of the colonies may be concerned; and make peace or declare war with Indian nations.

That they make such laws as they judge necessary for regulating all Indian trade.

That they make all purchases, from Indians for the crown, of lands not now within the bounds of particular colonies, or that shall not be within their bounds when some of them are reduced to more convenient dimensions.

That they make new settlements on such purchases, by granting lands in the King's name, reserving a quit-rent to the crown for the use of the general treasury.

That they make laws for regulating and governing such new settlements, till the crown shall think fit to form them into particular governments.

That they raise and pay soldiers and build forts for the defence of any of the colonies, and equip vessels of force to guard the coasts and protect the trade on the ocean, lakes, or great rivers; but they shall not impress men in any colony, without the consent of the legislature.

That for these purposes they have power to make laws, and lay and levy such general duties, imports, or taxes, as to them shall appear most equal and just (considering the ability and other circumstances of the inhabitants in the several colonies)...

That they may appoint a General Treasurer and Particular Treasurer in each government, when necessary; ..

Yet no money to issue but by joint orders of the President-General and Grand Council; except where sums have been appropriated to particular purposes, and the President-General is previously empowered by an act to draw such sums.

That the general accounts shall be yearly settled and reported to the several Assemblies.

That a quorum of the Grand Council, empowered to act with the President-General, do consist of twenty-five members; among whom there shall be one or more from a majority of the colonies.

That the laws made by them for the purposes aforesaid shall not be repugnant, but, as near as may be, agreeable to the laws of England, and shall be transmitted to the King in Council for approbation, as soon as may be after their passing; and if not disapproved within three years after presentation, to remain in force.

That, in case of the death of the President-General, the Speaker of the Grand Council for the time being shall succeed, and be vested with the same powers and authorities, to continue till the King's pleasure be known.

That all military commission officers, whether for land or sea

service, to act under this general constitution, shall be nominated by the President-General; but the approbation of the Grand Council is to be obtained, before they receive their commissions. And all civil officers are to be nominated by the Grand Council, and to receive the President-General's approbation before they officiate.

But, in case of vacancy by death or removal of any officer civil or military under this constitution, the Governor of the province in which such vacancy happens may appoint, till the pleasure of the President-General and Grand Council can be known.

That the particular military as well as civil establishments in each colony remain in their present state, the general constitution notwithstanding; and that on sudden emergencies any colony may defend itself, and lay the accounts of expense thence arising before the President-General and General Council, who may allow and order payment of the same, as far as they judge such accounts just and reasonable.

24. THE CAROLINAS IN 1757

The book from which the following extracts are taken, was published first anonymously in 1757. It has generally been ascribed to Edmund Burke.

An Account of the European Settlements in America, Vol. 2, pp. 241-261. London, 1765.

THESE two provinces, lying between the 31st and 36th degrees of latitude, are upwards of four hundred miles in length, and in breadth to the Indian nations near three hundred. . .

The whole country is in a manner one forest, where our planters have not cleared it. The trees are almost the same in every respect with those produced in Virginia; and, by the different species of these, the quality of the soil is easily known; for those grounds which bear the oak, the walnut, and the hickory, are extremely fertile; they are of a dark sand, intermixed with loam, and, as all their land abounds with nitre, it is a long time before it is exhausted; for here they never use any manure. The pine barren is the worst of all; this is an almost perfectly white sand, yet it bears the pine tree and some other useful plants naturally, yielding good profit in pitch, tar, and turpentine. When this species of land is cleared, for two or three years together it produces very tolerable crops of Indian corn and pease; and, when it lies low and is flooded, it even answers well for rice. But, what is the best of all for this province, this worst species of its land is

favourable to a species of the most valuable of all its products to one of the kinds of indigo. There is another sort of ground, which lies low and wet upon the banks of some of their rivers; this is called swamp, which in some places is in a manner useless, in others it is far the richest of all their grounds; it is a black fat earth, and bears their great staple rice, which must have in general a rich moist soil, in the greatest plenty and perfection. The country near the sea and at the mouths of the navigable rivers is much the worst; .. but the country, as you advance in it, improves continually; and at an hundred miles distance from Charles-town, where it begins to grow hilly, the soil is of a prodigious fertility, fitted for every purpose of human life... Wheat grows extremely well there, and yields a prodigious increase. In the other parts of Carolina they raise but little, where it is apt to mildew and spend itself in straw; and these evils the planters take very little care to redress, as they turn their whole attention to the culture of rice, which is more profitable, and in which they are unrivalled; being supplied with what wheat they want in exchange for this grain from New York and Pennsylvania.

.....

... All the animals of Europe are here in plenty; black cattle are multiplied prodigiously. About fifty years ago, it was a thing extraordinary to have above three or four cows, now some have a thousand; some in North Carolina a great many more; but to have two or three hundred is very common. These ramble all day at pleasure in the forests; but, their calves being separated and kept in fenced pastures, the cows return every evening to them; they are then milked, detained all night, milked in the morning, and then let loose again. The hogs range in the same manner, and return like the cows, by having shelter and some victuals provided for them at the plantation; these are vastly numerous, and many quite wild; ..

.....

The trade of Carolina, besides the lumber, provision, and the like, which it yields in common with the rest of America, has three great staple commodities, indigo, rice, and the produce of the pine, turpentine, tar, and pitch. The two former commodities South Carolina has intirely to itself; and, taking in North Carolina, this part of America yields more pitch and tar than all the rest of our colonies.

Rice anciently formed by itself the staple of this province; this wholesome grain makes a great part of the food of all ranks of people in the Southern parts of the world; in the Northern, it is not so much in request. Whilst the rigour of the act of navigation obliged them to

send all their rice directly to England, to be re-shipped for the markets of Spain and Portugal, the charges incident to this regulation lay so heavy upon the trade, that the cultivation of rice, especially in time of war, when these charges were greatly aggravated by the rise of the freight and insurance, hardly answered the charges of the planter; but now the legislature has relaxed the law in this respect, and permits the Carolinians to send their rice directly to any place to the Southward of Cape Finisterre. This prudent indulgence has again revived the rice trade; and, though they have gone largely, and with great spirit, into the profitable article of indigo, it has not diverted their attention from the cultivation of rice; they raise now above double the quantity of what they raised some years ago; and this branch alone of their commerce is, at the lowest estimation, worth one hundred and fifty thousand pounds sterling annually.

Indigo is a dye made from a plant of the same name, which probably was so called from India, where it was first cultivated, and from whence we had, for a considerable time, the whole of what we consumed in Europe. . .

. . . about twenty-five negroes may manage a plantation of fifty acres, and compleat the manufacture of the drug, besides providing their own necessary subsistence, and that of the planter's family. Each acre yields, if the land be very good, sixty or seventy pounds weight of indigo; at a medium the produce is fifty pounds. . .

.....

There is perhaps no branch of manufacture, in which so large profits may be made upon so moderate a fund, as that of indigo; and there is no country in which this manufacture can be carried on to such advantage as in Carolina, where the climate is healthy, provision plentiful and cheap, and every thing necessary for that business had with the greatest ease. To do justice to the Carolinians, they have not neglected these advantages; and, if they continue to improve them with the same spirit in which they have begun and attend diligently to the quality of their goods, they must naturally and necessarily come to supply the whole consumption of the world with this commodity; and consequently make their country the richest, as it is the pleasantest and most fertile, part of the British dominions.

.....

The mouths of the rivers in North Carolina form but ordinary harbours, and do not admit, except one at Cape Fear, vessels of above seventy or eighty tons; so that larger ships are obliged to lye off in a sound called Ocacock, which is formed between some islands and the

continent. This lays a weight upon their trade by the expence of light-erage. North Carolina, partly upon that occasion, but principally that the first settlements were made as near as possible to the capital, which lies considerably to the Southward, was greatly neglected. For a long time it was but ill inhabited, and by an indigent and disorderly people, who had little property, and hardly any law or government to protect them in what they had. As commodious land grew scarce in the other colonies, people in low circumstances, observing that a great deal of excellent and convenient land was yet to be patented in North Carolina, were induced by that circumstance to plant themselves there. Others, who saw how they prospered, followed their example. The government became more attentive to the place as it became more valuable; by degrees something of a better order was introduced. The effect of which is, that, though by no means as wealthy as South Carolina, North Carolina has many more white people; things begin to wear a face of settlement; ..

Edenton was formerly the capital of North Carolina, if a trifling village can deserve that denomination; but the present governor Mr. Dobbs has projected one further South upon the river Neus; which, though it has the advantage of being something more central, is by no means equally well situated for trade, which ought always to be of the first consideration in whatever regards any of the colonies. However, none of their towns are worth mentioning; the conveniency of inland navigation in all our Southern colonies, and the want of handicraftmen, is a great and almost insuperable obstacle to their ever having any considerable.

.....

The only town in either of the Carolinas which can draw our attention is Charles-town; and this is one of the first in North America for size, beauty, and traffic. Its situation I have already mentioned, so admirably chosen at the confluence of two navigable rivers. Its harbour is good in every respect, but that of a bar, which hinders vessels of more than two hundred tons burden from entering. The town is regularly and pretty strongly fortified both by nature and art; the streets are well cut; the houses are large and well built, and rent extremely high. The church is spacious, and executed in a very handsome taste, exceeding every thing of that kind which we have in America. Here, besides, the several denominations of dissenters have their meeting houses. It contains about eight hundred houses, and is the seat of the governor and the place of meeting of the assembly. Several handsome equipages are kept here. The planters and merchants are rich and well bred; the people are shewy and expensive in their dress

and way of living; so that very thing conspires to make this by much the liveliest and politest place, as it is one of the richest too, in all America.

The best harbour in this province is far to the Southward, on the borders of Georgia, called Port-Royal. This might give a capacious and safe reception to the largest fleets of the greatest bulk and burden; yet the town, which is called Beaufort, built upon an island of the same name with the harbour, is not as yet considerable, but it bids fair in time for becoming the first trading town in this part of America.

The import trade of South Carolina from Great Britain and the West-Indies is the same in all respects with that of the rest of the colonies, and is very large. Their trade with the Indians is likewise in a very flourishing condition. As for its export, both the nature of that and its prodigious increase may be discerned from the following comparative tables, which let us see how much this colony has really advanced in a few years; as an attentive consideration of its natural advantages must shew us how much it must advance, if properly managed, as there is scarce any improvement of which this excellent country is not capable.

Exported from Charles-town,

In the year 1731.		In the year 1754.	
Rice	41,957 barrels	Rice,	104,682 barrels
Indigo,	00,000 pounds	Indigo,	216,924 pds.
Deerskins,	300 hhds.	Deerskins,	460 hogsheads
Pitch,	10,750 barrels		114 bund.
Tar,	2,063 ditto		508 loose
Turpent.	759 ditto	Pitch,	5,869 barrels
Beef, pork, &c. not particularized.		Tar,	2,945 ditto
		Turpent.	759 ditto
		Beef,	416 ditto
		Pork,	1,560 ditto
		Ind. corn,	16,428 bush.
		Peas,	9,162 ditto
		Tanned lea.	4,196 barrels
		Hides in the	
		hair	1,200
		Shing.	1,114,000
		Staves,	206,000
		Lumb.	395,000 feet

Besides a great deal of live cattle, horses, cedar, cypress, and walnut plank; bees-wax, myrtle, and some raw silk and cotton.

North Carolina, which is reputed one of the least flourishing of our settlements, and which certainly lay under great difficulties, yet is within a few years greatly improved. The consequence of this inferior province may appear by the following view of its trade, which I can take upon me to say is not very far from being exact; it is at least sufficiently so to exable us to form a proper idea of this province, and its commerce.

Exported from all the ports of North Carolina in 1753

Tar,	61,528	barrels.
Pitch,	12,055	ditto.
Turpentine,	10,429	ditto.
Staves,	762,330	no.
Shingles,	2,500,000	no.
Lumber,	2,000,647	feet.
Corn,	61,580	bushels.
Peas, about	10,000	ditto.
Pork & Beef,	3,300	barrels.
Tobacco, about	100	hogsheads.
Tanned lea. about	1000	hundred weight.
Deer skins, in all ways, about	30,000.	

Besides a very considerable quantity of wheat, rice, bread, potatoes, bees-wax, tallow, candles, bacon, hog's lard, some cotton, and a vast deal of squared timber of walnut and cedar, and hoops and headings of all sorts. Of late they raise indigo, but in what quantity I cannot determine, for it is all exported from South Carolina.

25. VIRGINIA IN 1759

The following account of Virginia is by an English clergyman, who in 1759-60 travelled through the Middle Colonies.

Andrew Burnaby, Travels Through the Middle Settlements in North America, pp. 15-29. London, 1798.

VIEWED and considered as a settlement, Virginia is far from being arrived at that perfection of which it is capable. Not a tenth of the land is yet cultivated: and that which is cultivated, is far from being so in the most advantageous manner. It produces, however, considerable quantities of grain and cattle, and fruit of many kinds. The Virginia

pork is said to be superior in flavour to any in the world; but the sheep and horned cattle being small and lean, the meat of them is inferior to that of Great Britain, or indeed, of most parts of Europe. The horses are fleet and beautiful; and the gentlemen of Virginia, who are exceedingly fond of horse-racing, have spared no expence or trouble to improve the breed of them by importing great numbers from England.

The fruits introduced here from Europe succeed extremely well; particularly peaches, which have a very fine flavour, and grow in such plenty as to serve to feed the hogs in the autumn of the year. Their blossoms in the spring make a beautiful appearance throughout the country.

Virginia is divided into fifty-two counties, and seventy-seven parishes, and by act of assembly there ought to be forty-four towns; but one half of these have not more than five houses; and the other half are little better than inconsiderable villages. This is owing to the cheapness of land, and the commodiousness of navigation: for every person may with ease procure a small plantation, can ship his tobacco at his own door, and live independent. When the colony shall come to be more thickly seated, and land grow dear, people will be obliged to follow trades and manufactures, which will necessarily make towns and large cities; but this seems remote, and not likely to happen for some centuries.

The inhabitants are supposed to be in number between two and three hundred thousand. There are a hundred and five thousand tytheables, under which denomination are included all white males from sixteen to sixty; and all negroes whatsoever within the same age. The former are obliged to serve in the militia, and amount to forty thousand.

The trade of this colony is large and extensive. Tobacco is the principal article of it. Of this they export annually between fifty and sixty thousand hogsheads, each hogshead weighing eight hundred or a thousand weight: some years they export much more. They ship also for the Madeiras, the Streights, and the West-Indies, several articles, such as grain, pork, lumber, and cyder: to Great Britain, bar-iron, indigo, and a small quantity of ginseng, though of an inferior quality; and they clear out one year with another about ton of shipping.

Their manufactures are very inconsiderable. They make a kind of cotton-cloth, with which they clothe themselves in common, and call after the name of their country; and some inconsiderable quantities of linen, hose, and other trifling articles: but nothing to deserve attention.

The government is a royal one: the legislature consisting of a governor appointed by the king; a council of twelve persons, under the same nomination; and a house of burgesses, or representatives, of a hundred and eight or ten members, elected by the people. . .

The courts of judicature are either county, or general courts. The county courts are held monthly in each county, at a place assigned for that purpose, by the justices thereof; four of them making a quorum. They are appointed by the governor, and take cognizance of all causes, at common law, or in chancery, . . except criminal ones, punishable with loss of life, or member. . . The general court is held twice a year at Williamsburg. It consists of the governor and council, any five of which make a court. They hear and determine all causes whatsoever, . . appeals are allowed to the king in council, in cases of 500*l.* sterling value. The governor has a power of pardoning criminals in all cases, except a treason or murder: and then he can only reprieve till he knows the king's pleasure.

The established religion is that of the church of England; and there are very few Dissenters of any denomination in this province. There are at present between sixty and seventy clergymen; men in general of sober and exemplary lives. They have each a glebe of two or three hundred acres of land, a house, and a salary established by law of 16,000 weight of tobacco, with an allowance of 1,700 more for shrinkage. . . The presentation of livings is in the hands of the vestry; . . The diocesan is the bishop of London; who has a power of appointing a commissary to preside over, and convene the clergy on particular occasions; and to censure, or even suspend them, in cases of neglect or immorality. His salary is 100*l.* sterling per annum; and he is generally of the council, which is of equal emolument to him. . .

From what has been said of this colony, it will not be difficult to form an idea of the character of its inhabitants. The climate and external appearance of the country conspire to make them indolent, easy, and good-natured; extremely fond of society, and much given to convivial pleasures. In consequence of this, they seldom show any spirit of enterprize, or expose themselves willingly to fatigue. Their authority over their slaves renders them vain and imperious, and intire strangers to that elegance of sentiment, which is so peculiarly characteristic of refined and polished nations. . .

The display of a character thus constituted, will naturally be in acts of extravagance, ostentation, and a disregard of œconomy; it is not extraordinary, therefore, that the Virginians out-run their incomes; and that having involved themselves in difficulties, they are frequently

tempted to raise money by bills of exchange, which they know will be returned protested, with 10 per cent. interest.

The public or political character of the Virginians, corresponds with their private one: they are haughty and jealous of their liberties, impatient of restraint, and can scarcely bear the thought of being controuled by any superior power. Many of them consider the colonies as independent states, not connected with Great Britain, otherwise than by having the same common king, and being bound to her by natural affection. There are but few of them that have a turn for business, and even those are by no means expert at it. . . In matters of commerce they are ignorant of the necessary principles that must prevail between a colony and the mother country; they think it a hardship not to have an unlimited trade to every part of the world. They consider the duties upon their staple as injurious only to themselves; and it is utterly impossible to persuade them that they affect the consumer also. However, to do them justice, the same spirit of generosity prevails there which does in their private character; they never refuse any necessary supplies for the support of government when called upon, and are a generous and loyal people.

The women are, generally speaking, handsome, though not to be compared with our fair country-women in England. They have but few advantages, and consequently are seldom accomplished; this makes them reserved, and unequal to any interesting or refined conversation. They are immoderately fond of dancing, and indeed it is almost the only amusement they partake of: but even in this they discover want of taste and elegance, and seldom appear with that gracefulness and ease, which these movements are calculated to display. . . The Virginian ladies, excepting these amusements, and now and then going upon a party of pleasure into the woods to partake of a barbecue, chiefly spend their time in sewing and taking care of their families: they seldom read, or endeavour to improve their minds; however, they are in general good housewives; and though they have not, I think, quite so much tenderness and sensibility as the English ladies, yet they make as good wives, and as good mothers, as any in the world.

26. WORKING OF THE BOARD OF TRADE

Removal of a royal governor.

Frederick Ricord and William Nelson, Documents Relating to the Colonial History of the State of New Jersey, Vol. 9, pp. 361-362. Newark, N. J. 1885.

To the Kings most Excellent Majesty,

May it please your Majesty,

Having lately rec^d a letter from Josiah Hardy Esq^r Governor of your Majesty's Province of New Jersey, dated the 20th of January last, acquainting Us amongst other things that he had granted a Commission to Robert Hunter Morris Esq^r to be Chief Justice and also Commissions to two other Gentlemen to be second and third Judges of the supreme Court of Justice in that Province, during their good behaviour, it is our duty humbly to lay before your Majesty the annex'd extract of so much of M^r Hardy's letter as relates to this matter.

We have already in Our humble Representation to your Majesty of the 11th of November last so fully set forth Our Opinion of the impropriety of the Judges in the Plantations holding their Offices during good behaviour and the operation, w^h in the present state of those Plantations such a Constitution would have to lessen their just and proper dependance upon your Majesty's Government that is unnecessary for Us to add any thing further upon that head, and your Majesty's General Instructions to all your Governors and those Instructions in particular which were grounded upon that Representation are so full and so positive that We cannot offer any thing that may in the least degree extenuate so premeditated and unprecedented an Act of disobedience of your Majesty's Governor of New Jersey, in a matter so essential to your Majesty's interest and Service, not only in that Province but in all other your Majesty's American Dominions.

The appointing of M^r Morris to be Chief Justice after the Contempt he had shown of your Majesty's authority, by procuring a person who had been appointed to that Office in consequence of His late Majesty's Warrant, to be superseded by a Judgment of that Court, in which he claimed to preside by a bare authority of the Governor, is alone such an example of misconduct, as does, in our opinion, render the Governor unworthy of the Trust your Majesty has conferred upon him. But aggravated as his Guilt is by the mode of the appointment and by the influence it will necessary have in the neighbouring Provinces of Pennsylvania and New York, and particularly in the latter, where the utmost zeal and efforts of the Lieut^t Governor has been hardly sufficient to restrain the intemperate zeal and indecent opposition of the Assembly to your Majesty's authority, and Royal Determination upon this point: It becomes, under these Circumstances, our indispensable duty to propose that this Gentleman may be forthwith Recalled from his Government, as a necessary example to deter others in the same situation from like Acts of Disobedience to your Majesty's

Orders, and as a measure essentially necessary to support your Majesty's just Rights and authority in the Colonies and to enable Us to do Our duty in the station your Majesty has been graciously pleased to place Us in, and effectually to execute the Trust committed to Us.

Which is most humbly submitted.

SANDYS	E ^d ELIOT
SOAME JENYNS	GEO: RICE
E ^d BACON	JOHN ROBERTS
JOHN YORKE	

Whitehall March 27th 1762

27. THE PROCLAMATION OF 1763

October 7, 1763, the following royal proclamation was issued. It was hurried out in the hope of quieting Pontiac's Insurrection by reassuring the Indians against aggression of white men on their land. It stated the crest of the mountains as the boundary beyond which settlement was not to go. Latterly, it was a serious question whether in this respect the Proclamation was intended to be temporary or permanent.

Annual Register, 1763, pp. 208-213. London, 1764.

By the KING.

A PROCLAMATION. GEORGE, R.

WHEREAS we have taken into our royal consideration the extensive and valuable acquisitions in America, secured to our crown by the late definitive treaty of peace concluded at Paris the 10th day of February last... we have thought fit... to... declare to all our loving subjects, that we have... granted our letters patent... to erect within the countries and islands, ceded and confirmed to us by the said treaty, four distinct and separate governments, ..and limited and bounded as follows, viz.

First, the government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the South end of the lake Nipissim; from whence the said line, crossing the river St. Lawrence and the lake Champlain in 45 degrees of North latitude, passes along the High Lands, which divide the rivers that empty themselves into the said river St. Lawrence, from those which fall into the sea; and

also along the North coast of the Baye des Chaleurs, and the coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the mouth of the river St. Lawrence by the West end of the island of Anticosti, terminates at the aforesaid river St. John.

Secondly, The government of East Florida, bounded to the Westward by the Gulph of Mexico and the Apalachicola river; to the Northward, by a line drawn from that part of the said river where the Catahouchee and Flint rivers meet, to the source of St. Mary's river, and by the course of the said river to the Atlantic Ocean; and to the East and South by the Atlantic Ocean, and the Gulph of Florida, including all islands within six leagues of the sea coast.

Thirdly, The government of West Florida, bounded to the Southward by the Gulph of Mexico, including all islands within six leagues of the coast from the river Apalachicola to lake Pontchartrain; to the Westward by the said lake, the lake Maurepas, and the river Mississippi; to the Northward, by a line drawn due East from that part of the river Mississippi which lies in thirty-one degrees North Latitude, to the river Apalachicola, or Catahouchee; and to the Eastward by the said river.

Fourthly, The government of Grenada, comprehending the island of that name, together with the Grenadines, and the islands of Dominico, St. Vincent, and Tobago.

And to the end that the open and free fishery of our subjects may be extended to, and carried on upon the coast of Labrador and the adjacent islands, we have thought fit, with the advice of our said privy council, to put all that coast, from the river St. John's to Hudson's Streights, together with the islands of Anticosti and Madelaine, and all other smaller islands lying upon the said coast, under the care and inspection of our governor of Newfoundland.

We have also, with the advice of our privy council, thought fit to annex the islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to our government of Nova Scotia.

We have also, with the advice of our privy council aforesaid, annexed to our province of Georgia, all the lands lying between the rivers Attamaha and St. Mary's.

And whereas it will greatly contribute to the speedy settling our said new governments, that our loving subjects should be informed of our paternal care for the security of the liberties and properties of those who are, and shall become inhabitants thereof; we have thought fit to publish and declare, by this our proclamation, that we have, in the letters patent under our great seal of Great Britain, by which the said governments are constituted, given express power and direction to our

governors of our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America, which are under our immediate government; and we have also given power to the said governors, with the consent of our said councils, and the representatives of the people, so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes, and ordinances for the public peace, welfare, and good government of our said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies; and in the mean time, and until such assemblies can be called as aforesaid, all persons inhabiting it, or resorting to, our said colonies, may confide in our royal protection for the enjoyment of the benefit of the laws of our realm of England; for which purpose we have given power under our great seal to the governors of our said colonies respectively, to erect and constitute, with the advice of our said councils respectively, courts of judicature and public justice within our said colonies, for the hearing and determining all causes, as well criminal as civil, according to law and equity, and, as near as may be, agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal, under the usual limitations and restrictions, to us, in our privy council.

We have also thought fit, with the advice of our privy council as aforesaid, to give unto the governors and councils of our said three new colonies upon the continent, full power and authority to settle and agree with the inhabitants of our said new colonies, or to any other person who shall resort thereto, for such lands, tenements, and hereditaments, as are now, or hereafter shall be, in our power to dispose of, and them to grant to any such person or persons, upon such terms, and under such moderate quit-rents, services and acknowledgments, as have been appointed and settled in other colonies, and under such other conditions as shall appear to us to be necessary and expedient for the advantage of the grantees, and the improvement and settlement of our said colonies.

And whereas we are desirous, upon all occasions, to testify our royal sense and approbation of the conduct and bravery of the officers and soldiers of our armies, and to reward the same, we do hereby command and empower our governors of our said three new colonies, and other our governors of our several provinces on the continent of North

America, to grant, without fee or reward, to such reduced officers as have served in North America during the late war, and are actually residing there, and shall personally apply for the same, the following quantities of land, subject, at the expiration of ten years, to the same quit-rents as other lands are subject to in the province within which they are granted, as also subject to the same conditions of cultivation and improvement, viz.

To every person having the rank of a field officer, 5000 acres.

To every captain, 3000 acres.

To every subaltern or staff officer, 2000 acres.

To every non-commission officer, 200 acres.

To every private man 50 acres. . .

And whereas it is just and reasonable, and essential to our interest, and the security of our colonies, that the several nations of tribes of Indians, with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to, or purchased by us, are reserved to them, or any of them, as their hunting grounds; we do therefore, with the advice of our privy council, declare it to be our royal will and pleasure, that no governor, or commander in chief, in any of our colonies of Quebec, East Florida, or West Florida, do presume, upon any pretence whatever, to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions; as also that no governor or commander in chief of our other colonies or plantations in America, do presume for the present, and until our further pleasure be known, to grant warrant of survey, or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or north west; or upon any lands whatever, which not having been ceded to, or purchased by us, as aforesaid, are reserved to the said Indians, or any of them . . . and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever, or taking possession of any of the lands above reserved, without our especial leave and licence for that purpose first obtained.

And we do further strictly enjoin and require all persons whatever, who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands, which not having been ceded to, or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the

purchasing lands of the Indians . . . we do, with the advice of our privy council, strictly enjoin and require, that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but that if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the governor or commander in chief of our colony respectively within which they shall lie: . . . and we do, by the advice of our privy council, declare and enjoin, that the trade with the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians, do take out a licence for carrying on such trade, from the governor or commander in chief of any of our colonies respectively, where such person shall reside. . .

Given at our court at St. James's, the 7th day of October 1763, in the third year of our reign.

GOD save the KING.

28. WORKING OF THE IMPERIAL GOVERNMENT

An interesting commentary on the working of the Board of Trade by a man experienced in colonial administration in both England and America. It was first published in 1764. A second extract from it deals with the moot question of the salaries of the royal governors, the lever by which colonial assemblies sought to control the representatives of the crown.

Thomas Pownall, *The Administration of the British Colonies*, Vol. 1, pp. 26–28, 80–83. London, 1774.

BEFORE the erection of the Board of trade as a particular office; the business of the Colonies was administered with efficiency: the king himself in council, administered the government of his Colonies: . . . Since the establishment of that office, called the Board of Trade; the administration of the Colonies, has either lain dormant, or been overlaid: or, if taken up, become an occasion of jealousy and struggle for power, between that Board, and every state officer who hath been deemed the Minister for the time being. From this jealousy, and this struggle, this Board hath been supposed to interfere at different times with every other office; while at one time it hath had the powers, and

held the port of a minister's office; and at another, hath become a mere committee; inefficient as to execution; unattended to, as reporting. The Colonies, and the officers of the Colonies, have one while been taught to look up to this Board, as the Minister for their affairs: and at another, have learned to hold it in that contempt, which inefficiency gives; which contempt, however, hath not always stopped there. . . The Board of Trade should either be made what it never was intended to be, a Secretary of State's office for the plantations; or be confined to what it really is, a committee of reference for examination and report, for stating and preparing business; while the affairs of the Colonies should be administered solely by the King in council, really acting as an efficient board for that purpose. Somewhere there ought to be an efficiency; and in this supreme board, is the proper residence of it. To place it here, would be really, and in fact, the establishing of an administration for colony affairs.

SALARIES OF THE GOVERNORS

The crown does, by its instructions to its governors; order them to require of the legislature a permanent support. This order of the crown, is generally, if not universally rejected, by the legislatures of the colonies. The assemblies quote the precedents of the British constitution; and found all the rights and privileges which they claim, on the principles thereof. They . . . say, . . . that there is no other measure left to them, to prevent the misapplications of public money, than by an *annual* voting and appropriation of the salaries of the governor and other civil officers, issuing from monies lodged in the hands of a provincial treasurer, appointed by the assemblies: For in these subordinate governments . . . administered oftentimes by necessitous and rapacious governors . . . experience has shewn that such governors have misapplied the monies raised for the support of government, so that the civil officers have been left unpaid, even after having been provided for by the assembly. The point then . . . comes to this issue; Whether the inconveniencies arising from . . . some instances of misapplications of appropriations; . . . are a sufficient reason . . . for establishing a measure so directly contrary to the British constitution: and whether the inconveniencies . . . in which the support of governors, judges, and officers of the crown, will be found to have been withheld or reduced, on occasions, where the assemblies have supposed that they have had reason to disapprove the nomination, — or the person, or his conduct — whether, I say, these inconveniencies have not been more detrimental,

and injurious to the government of the colonies themselves, than any temporary inconveniencies which might arise within the period for which such establishment is fixed; and whether... the scepter is not reversed; and the officers of the crown dependant on, and governed by the assemblies. The Colonists themselves allow that this measure "renders the governor, and all the other servants of the crown, dependant on the assembly." — But the operation of this measure does not end here: it extends to the assuming, by the assemblies, the actual executive part of the government in the case of the revenue: than which, nothing is more clearly and unquestionably settled in the crown. In the colonies the treasurer is solely and entirely a servant of the assembly or general court:.. In consequence of this supposed necessity, for the assembly's taking upon them the administration of the treasury and revenue; the governor and servants of the crown... are not only held dependant on the assembly; but all services, where special appropriations are made for the extraordinaries which such services require, are actually executed and done by commissioners appointed by the assembly; to whose disposition, such appropriations are made liable. . .

29. THE SUGAR ACT

The Sugar Act, passed April 5, 1764, was intended to re-enact the Molasses Act in a form in which it was to be enforced. It threatened the ruin of the trade of the Northern and Middle Colonies, and was in great measure responsible for the outburst of 1765. It was modified a year later.

Pickering, Statutes at Large, Vol. 26, pp. 33-49. London, 1764.

WHEREAS it is expedient that new provisions and regulations should be established for improving the revenue of this kingdom, and for extending and securing the navigation and commerce between Great Britain and your Majesty's dominions in America, which, by the peace, have been so happily enlarged: and whereas it is just and necessary, that a revenue be raised, in your Majesty's said dominions in America, for defraying the expences of defending, protecting, and securing the same; we, your Majesty's most dutiful and loyal subjects, the commons of Great Britain, in parliament assembled, being desirous to make some provision, in this present session of parliament, towards raising the said revenue in America, have resolved to give and grant unto your Majesty the several rates and duties herein after-mentiond; .. That from and after the twenty ninth day of September, one thousand

seven hundred and sixty four, there shall be raised, levied, collected, and paid, unto his Majesty, his heirs and successors, for and upon all white or clayed sugars of the produce or manufacture of any colony or plantation in *America*, not under the dominion of his Majesty, his heirs and successors; for and upon indico, and coffee of foreign produce or manufacture; ..

For every hundred weight avoirdupois of such foreign white or clayed sugars, one pound, two shillings, over and above all other duties imposed by any former act of parliament.

For every pound weight avoirdupois of such foreign indico, six pence.

For every hundred weight avoirdupois of such foreign coffee, which shall be imported from any place, except *Great Britain*, two pounds, nineteen shillings, and nine pence.

.....

IV. And whereas an act was made in the sixth year of the reign of his late majesty King *George* the Second, intituled, *An¹ act for the better securing and encouraging the trade of his Majesty's sugar colonies in America*, ..

.....

VI. ... be it further enacted by the authority aforesaid, That in lieu and instead of the rate and duty imposed by the said act upon melasses and syrups, there shall, from and after the said twenty ninth day of *September*, one thousand seven hundred and sixty four, be raised, levied, collected, and paid, unto his Majesty, his heirs and successors, for and upon every gallon of melasses or syrups, being the growth, product, or manufacture, of any colony or plantation in *America*, not under the dominion of his Majesty, his heirs or successors, which shall be imported or brought into any colony or plantation in *America*, which now is, or hereafter may be, under the dominion of his Majesty, his heirs or successors, the sum of three pence.

.....

XLI. And it is hereby further enacted and declared, That from and after the twenty ninth day of *September*, one thousand seven hundred and sixty four, all sums of money granted and imposed by this act, and by an act made in the twenty fifth year of the reign of King *Charles* the Second, intituled, *An act for the encouragement of the Greenland and Eastland trades, and for the better securing the plantation trade*, as rates or duties; and also all sums of money imposed as penalties or forfeitures, by this or any other act of parliament relating to the

¹ This was the Molasses Act (No. 19).

customs, which shall be paid, incurred, or recovered, in any of the *British* colonies or plantations in *America*; shall be deemed, and are hereby declared to be sterling money of *Great Britain*, and shall be collected, recovered, and paid, to the amount of the value which such nominal sums bear in *Great Britain*; and that such monies shall and may be received and taken according to the proportion and value of five shillings and six pence the ounce in silver; ..

30. THE STAMP ACT

The Stamp Act of March 22, 1765, placed an internal parliamentary tax on the colonies. It became the rallying point of the colonial opposition to the new ministerial system.

Pickering, Statutes at Large, Vol. 26, pp. 179-187. Cambridge, 1764.

WHEREAS by an act made in the last session of parliament, several duties were granted... towards defraying the expences of defending ... the *British* colonies and plantations in *America*: and whereas it is just and necessary, that provision be made for raising a further revenue within your Majesty's dominions in *America*, towards defraying the said expences: we, .. the commons of *Great Britain* ... have therefore resolved to give and grant unto your Majesty the several rates and duties herein after mentioned; ..

For every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written or printed, any declaration, plea, replication, rejoinder, demurrer, or other pleading, or any copy thereof, in any court of law within the *British* colonies and plantations in *America*, a stamp duty of three pence.

For every skin ... or sheet ... of paper, on which shall be ingrossed, written or printed, any special bail ... a stamp duty of two shillings.

For every skin ... or sheet ... of paper, on which shall be ingrossed, written, or printed, any petition, bill, answer, .. or other pleading in any court of chancery or equity within the said colonies and plantations, a stamp duty of one shilling and six pence. ...

For ... any register, entry, testimonial or certificate of any degree taken in any university, academy, college, or seminary of learning ... a stamp duty of two pounds. ...

For every skin ... or sheet ... of paper, on which shall be ingrossed, written, or printed, any judgment ... in any court within the said colonies and plantations, a stamp duty of four shillings. ...

For ... any note or bill of lading, which shall be signed for any kind

of goods, wares, or merchandize, to be exported from, or any cocket or clearance granted within the said colonies and plantations, a stamp duty of four pence. . .

For every . . . licence for retailing of spirituous liquors, . . a stamp duty of twenty shillings.

For every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written, or printed, any licence for retailing of wine, to be granted to any person who shall not take out a licence for retailing of spirituous liquors, within the said colonies and plantations, a stamp duty of four pounds.

For every . . . probate of a will, letters of administration, or of guardianship for any estate above the value of twenty pounds sterling money; within the *British* colonies and plantations upon the continent of *America*, the islands belonging thereto, and the *Bermuda* and *Bahama* islands, a stamp duty of five shillings. . .

And for and upon every pack of playing cards, and all dice, which shall be sold or used within the said colonies and plantations, the several stamp duties following (that is to say)

For every pack of such cards, the sum of one shilling.

And for every pair of such dice, the sum of ten shillings.

And for and upon every paper, commonly called a *pamphlet*, and upon every news paper . . . the respective duties following (that is to say)

For every such pamphlet and paper contained in half a sheet, or any lesser piece of paper, which shall be so printed, a stamp duty of one halfpenny, for every printed copy thereof.

For every such pamphlet and paper (being larger than half a sheet, and not exceeding one whole sheet) which shall be so printed, a stamp duty of one penny, for every printed copy thereof. . .

For every advertisement to be contained in any gazette, news paper . . . a duty of two shillings. . .

For every skin . . . or piece of paper, on which any instrument . . . shall be . . . written, or printed . . . in any other than the *English* language, a stamp duty of double the amount of the respective duties before charged thereon. . .

31. PATRICK HENRY'S STAMP ACT SPEECH

An Earlier and a Later Version

The two following extracts are an interesting example of the way in which historical legends grow. The first selection is from the Ameri-

can Historical Review, Vol. 26, No. 4, July 1921, p. 745; the second is from William Wirt's Life of Patrick Henry, pp. 83-84. Philadelphia, 1818.

Journal of a French Traveller in the Colonies. 1765.

THE writer was a Catholic, and apparently a Frenchman, indeed apparently an agent of the French government; but all efforts to identify him . . . have thus far been unsuccessful. . .

May the 30th. Set out Early from halfway house in the Chair and broke fast at York, arrived at Williamsburg at 12, where I saw three Negroes hanging at the gallows for having robbed Mr. Waltho of 300 ps. I went immediately to the assembly which was sitting, where I was entertained with very strong Debates Concerning Duties that the parliament wants to lay on the American Colonies, which they call or stile stamp Duties. Shortly after I came in one of the members stood up and said he had read that in former times Tarquin and Julius had their Brutus, Charles had his Cromwell, and he did not doubt but some good American would stand up, in favour of his Country, but (says he) in a more moderate manner, and was going to continue, when the speaker of the house rose and said, he, the last that stood up had spoke treason, and was sorry to see that not one of the members of the house was loyal enough to stop him, before he had gone so far. upon which the same member stood up again (his name is Henry) and said that if he had affronted the speaker, or the house, he was ready to ask pardon, and he would shew his loyalty to his majesty King G. the third, at the expence of the last drop of his blood, but what he had said must be attributed to the interest of his Country's dying liberty which he had at heart, and the heat of passion might have lead him to have said something more than he intended, but, again, if he said any thing wrong, he begged the speaker and the houses pardon. some other Members stood up and backed him, on which that affair was dropped.

A LATER VERSION OF PATRICK HENRY'S SPEECH

"It was in the midst of this magnificent debate, while he was descanting on the tyranny of the obnoxious act, that he exclaimed in a voice of thunder, and with the look of a god, "Cesar had his Brutus — Charles the First, his Cromwell — and George the Third — ('Treason!' cried the speaker — 'Treason, treason!' echoed from

every part of the house. It was one of those trying moments which is decisive of character. Henry faltered not for an instant; but rising to a loftier attitude, and fixing on the speaker an eye of the most determined fire, he finished his sentence with the firmest emphasis) — *may profit by their example.* If *this* be treason, make the most of it.”¹

¹ I had frequently heard the above anecdote of the cry of treason, but with such variations of the concluding words, that I began to doubt whether the whole might not be fiction. With a view to ascertain the truth, therefore, I submitted it to Mr. Jefferson as it had been given to me by Judge Tyler, and this is his answer:—“I well remember the cry of treason, the pause of Mr. Henry at the name of George III., and the presence of mind with which he closed his sentence, and baffled the charge vociferated.” The incident, therefore, becomes authentic history. [*Footnote in Wirt's Life of Patrick Henry.*]

32. DECLARATION OF RIGHTS AND GRIEVANCES

The following extract from the proceedings of the Stamp Act Congress states the constitutional position assumed by the opposition to the ministerial measures in 1765. Compare it with later constitutional statements.

The Weekly Register, Vol. 2, pp. 337-341, July 25, 1812, Baltimore.

Journal of the

Stamp Act Congress;

Held at New-York, 1765.

...SATURDAY, Oct. 19th, 1765, A. M. — The congress met according to adjournment, and resumed, &c. as yesterday; and upon mature deliberation, agreed to the following declarations of the rights and grievances of the colonists in America, which were ordered to be inserted:

The members of this Congress, sincerely devoted, with the warmest sentiments of affection and duty to his majesty's person and government, inviolably attached to the present happy establishment of the protestant succession, and with minds deeply impressed by a sense of the present and impending misfortunes of the British colonies on this continent, having considered as maturely as time would permit, the circumstances of the said colonies, esteem it our indispensable duty to make the following declarations, of our humble opinion respecting

the most essential rights and liberties of the colonists, and of the grievances under which they labor, by reason of several late acts of parliament.

1st. That his majesty's subjects in these colonies owe the same allegiance to the crown of Great Britain, that is owing from his subjects born within the realm, and all due subordination to that august body, the parliament of Great Britain.

2d. That his majesty's liege subjects in these colonies are entitled to all the inherent rights and privileges of his natural born subjects within the kingdom of Great Britain.

3d. That it is inseparably essential to the freedom of a people, and the undoubted rights of Englishmen, that no taxes should be imposed on them, but with their own consent, given personally, or by their representatives.

4th. That the people of these colonies are not, and from their local circumstances, cannot be, represented in the house of commons in Great Britain.

5th. That the only representatives of the people of these colonies, are persons chosen therein, by themselves; and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures.

6th. That all supplies to the crown, being free gifts of the people, it is unreasonable and inconsistent with the principles and spirit of the British constitution, for the people of Great Britain to grant to his majesty, the property of the colonists.

7th. That trial by jury is the inherent and invaluable right of every British subject in these colonies.

8th. That the late act of parliament, entitled, An act for granting and applying certain stamp duties, and other duties in the British colonies and plantations in America, &c. by imposing taxes on the inhabitants of these colonies, and the said act, and several other acts, by extending the jurisdiction of the courts of admiralty beyond its ancient limits, have a manifest tendency to subvert the rights and liberties of the colonists.

9th. That the duties imposed by several late acts of parliament, from the peculiar circumstances of these colonies, will be extremely burthensome and grievous, and from the scarcity of specie, the payment of them absolutely impracticable.

10th. That as the profits of the trade of these colonies ultimately centre in Great Britain, to pay for the manufactures which they are obliged to taken from thence, they eventually contribute very largely to all supplies granted there to the crown.

11th. That the restrictions imposed by several late acts of parliament on the trade of these colonies will render them unable to purchase the manufactures of Great Britain.

12th. That the increase, prosperity and happiness of these colonies depend on the full and free enjoyment of their rights and liberties, and an intercourse with Great Britain, mutually affectionate and advantageous.

13th. That it is the right of the British subjects in these colonies to petition the king or either house of parliament.

Lastly, That it is the indispensable duty of these colonies to the best of sovereigns, to the mother country, and to themselves, to endeavor, by a loyal and dutiful address to his majesty, and humble application to both houses of parliament, to procure the repeal of the act for granting and applying certain stamp duties, of all clauses of any other acts of parliament, whereby the jurisdiction of the admiralty is extended as aforesaid, and of the other late acts for the restriction of the American commerce...

33. BENJAMIN FRANKLIN ON THE STAMP ACT

Franklin had a high reputation in England for judgment, discretion and knowledge of colonial affairs. He was heard before the House of Commons committee as to the colonial attitude toward the Stamp Act on February 13, 1766. His unstudied frankness helped much to bring about the repeal of the act.

The Examination of Doctor Benjamin Franklin, pp. 1-16. n. d.

Q. What is your name and place of abode?

A. Franklin of Philadelphia.

Q. Do the Americans pay any considerable taxes among themselves?

A. Certainly many, and very heavy taxes...

Q. Are not all the people very able to pay those taxes?

A. No. The Frontier counties, all along the continent, having been frequently ravished by the enemy, and greatly impoverished, are able to pay very little tax. And therefore, in consideration of their distresses, our late tax laws do expressly favour these counties, excusing the sufferers; and I suppose the same is done in other governments...

Q. From the thinness of the back settlements, would not the stamp-act be extremely inconvenient to the inhabitants, if executed?

A. To be sure it would; as many of the inhabitants could not get

stamps when they had occasion for them, without taking long journies, and spending perhaps Three or Four Pounds, that the crown might get Six pence.

Q. Are not the Colonies, from their circumstances, very able to pay the stamp duty?

A. In my opinion, there is not gold and silver enough in the Colonies to pay the stamp duty for one year. . .

Q. What number of white inhabitants do you think there are in Pennsylvania?

A. I suppose there may be about 160,000. . .

Q. How many white men do you suppose there are in North-America?

A. About 300,000 from sixteen to sixty years of age.

Q. What may be the amount of one year's imports into Pennsylvania from Britain?

A. I have been informed that our merchants compute the imports from Britain to be above 500,000 Pounds.

Q. What may be the amount of the produce of your province exported to Britain?

A. It must be small, as we produce little that is wanted in Britain. I suppose it cannot exceed 40,000 Pounds.

Q. How then do you pay the ballance?

A. The ballance is paid by our produce carried to the West-Indies, and sold in our own islands, or to the French, Spaniards, Danes and Dutch; by the same carried to other colonies in North-America, as to New-England, Nova-Scotia, Newfoundland, Carolina and Georgia; by the same carried to different parts of Europe, as Spain, Portugal and Italy: In all which places we receive either money, bills of exchange, or commodities that suit for remittance to Britain; which, together with all the profits on the industry of our merchants and mariners, arising in those circuitous voyages, and the freights made by their ships, center finally in Britain, to discharge the ballance, and pay for British manufactures continually used in the province, or sold to foreigners by our traders. . .

Q. Do you think it right America should be protected by this country, and pay no part of the expence.

A. That is not the case. The Colonies raised, cloathed and paid, during the last war, near 25,000 men, and spent many millions.

Q. Were you not reimbursed by parliament?

A. We were only reimbursed what, in your opinion, we had advanced beyond our proportion, or beyond what might be reasonably expected from us; and it was a very small part of what we spent. Penn-

sylvania, in particular, disbursed about 500,000 Pounds, and the reimbursements, in the whole, did not exceed 60,000 Pounds. . .

Q. Do not you think the people of America would submit to pay the stamp duty, if it was moderated?

A. No, never, unless compelled by force of arms. . .

Q. What was the temper of America towards Great-Britain before the year 1763?

A. The best in the world. They submitted willingly to the government of the Crown, and paid, in all their courts, obedience to acts of parliament. Numerous as the people are in the several old provinces, they cost you nothing in forts, citadels, garrisons or armies, to keep them in subjection. They were governed by this country at the expence only of a little pen, ink and paper. They were led by a thread. They had not only a respect, but an affection, for Great-Britain, for its laws, its customs and manners, and even a fondness for its fashions, that greatly increased the commerce. Natives of Britain were always treated with particular regard; to be an Old England-man, was, of itself, a character of some respect, and gave a kind of rank among us.

Q. And what is their temper now?

A. O, very much altered.

Q. Did you ever hear the authority of parliament to make laws for America questioned till lately?

A. The Authority of parliament was allowed to be valid in all laws, except such as should lay internal taxes. It was never disputed in laying duties to regulate commerce. . .

Q. In what light did the people of America use to consider the parliament of Great-Britain?

A. They considered the parliament as the great bulwark and security of their liberties and privileges, and always spoke of it with the utmost respect and veneration. . .

Q. And have they not still the same respect for parliament?

A. No; it is greatly lessened.

Q. To what causes is that owing?

A. To a concurrence of causes; the restraints lately laid on their trade, by which the bringing of foreign gold and silver into the Colonies was prevented; the prohibition of making paper money among themselves; and then demanding a new and heavy tax by stamps; taking away, at the same time, trials by juries, and refusing to receive and hear their humble petitions.

Q. Don't you think they would submit to the stamp-act, if it was modified, the obnoxious parts taken out, and the duties reduced to some particulars, of small moment?

A. No; they will never submit to it...

Q. What is your opinion of a future tax, imposed on the same principle with that of the stamp-act; how would the Americans receive it?

A. Just as they do this. They would not pay it...

Q. Was it an opinion in America before 1763, that the parliament had no right to lay taxes and duties there?

A. I never heard any objection to the right of laying duties to regulate commerce; but a right to lay internal taxes was never supposed to be in parliament, as we are not represented there...

Q. But supposing the external tax or duty to be laid on the necessities of life imported into your Colony, will not that be the same thing in its effects as an internal tax?

A. I do not know a single article imported into the northern Colonies, but what they can either do without, or make themselves...

Q. Can there be wool and manufacture enough in one or two years?

A. In three years, I think, there may...

Q. Considering the resolutions of parliament, as to the right, do you think, if the stamp-act is repealed, that the North Americans will be satisfied?

A. I believe they will.

Q. Why do you think so?

A. I think the resolutions of right will give them very little concern, if they are never attempted to be carried into practice...

Q. Can any thing less than a military force carry the stamp-act into execution?

A. I do not see how a military force can be applied to that purpose.

Q. Why may it not?

A. Suppose a military force sent into America, they will find nobody in arms; what are they then to do? They cannot force a man to take stamps who chooses to do without them. They will not find a rebellion; they may indeed make one.

Q. If the act is not repealed, what do you think will be the consequences?

A. A total loss of the respect and affection the people of America bear to this country, and of all the commerce that depends on that respect and affection.

Q. How can the commerce be affected?

A. You will find, that if the act is not repealed, they will take very little of your manufactures in a short time.

Q. Is it in their power to do without them?...

A. The goods they take from Britain are either necessities, mere

conveniences, or superfluities. The first, as cloth, &c. with a little industry they can make at home; the second they can do without, till they are able to provide them among themselves; and the last, which are much the greatest part, they will strike off immediately. They are mere articles of fashion, purchased and consumed, because the fashion in a respected country, but will now be detested and rejected. The people have already struck off, by general agreement, the use of all goods fashionable in mournings, and many thousand pounds worth are sent back as unsaleable.

Q. Is it their interest to make cloth at home?

A. I think they may at present get it cheaper from Britain, I mean of the same fineness and neatness of workmanship; but when one considers other circumstances, the restraints on their trade, and the difficulty of making remittances, it is their interest to make every thing.

Q. Suppose an act of internal regulations, connected with a tax, how would they receive it?

A. I think it would be objected to.

Q. Then no regulation with a tax would be submitted to?

A. Their opinion is, that when aids to the Crown are wanted, they are to be asked of the several assemblies, according to the old established usage, who will, as they always have done, grant them freely. And that their money ought not to be given away without their consent, by persons at a distance unacquainted with their circumstances and abilities. . .

Q. Supposing the stamp act continued, and enforced, do you imagine that ill humour will induce the Americans to give as much for worse manufactures of their own, and use them, preferable to better of ours?

A. Yes I think so. People will pay as freely to gratify one passion as another, their resentment as their pride. . .

Q. If the stamp act should be repealed, would not the Americans think they could oblige the parliament to repeal every internal tax law now in force?

A. It is hard to answer questions of what people at such a distance will think.

Q. But what do you imagine they will think were the motives of repealing the act?

A. I suppose they will think that it was repealed from a conviction of its inexpediency; and they will rely upon it, that while the same inexpediency subsists, you will never attempt to make such another.

Q. What do you mean by its inexpediency?

A. I mean its inexpediency on several accounts; the poverty and inability of those who were to pay the tax; the general discontent it has occasioned; and the impracticability of enforcing it.

Q. If the act should be repealed, and the legislature should shew its resentment to the opposers of the stamp-act, would the Colonies acquiesce in the authority of the legislature? What is your opinion they would do?

A. I don't doubt at all, that if the legislature repeal the stamp-act, the Colonies will acquiesce in the authority...

Q. But suppose Great-Britain should be engaged in a war in Europe, would North America contribute to the support of it?

A. I do think they would, as far as their circumstances would permit. They consider themselves as a part of the British empire, and as having one common interest with it; they may be looked on here as foreigners, but they do not consider themselves as such. They are zealous for the honour and prosperity of this nation, and, while they are well used, will always be ready to support it, as far as their little power goes...

Q. Is it not necessary to send troops to America, to defend the Americans against the Indians?

A. No, by no means, it never was necessary. They defended themselves when they were but an handful, and the Indians much more numerous. They continually gained ground, and have driven the Indians over the mountains, without any troops sent to their assistance from this country...

Q. Do you think the assemblies have a right to levy money on the subject there, to grant to the Crown?

A. I certainly think so; they have always done it...

Q. If the stamp-act should be repealed, and the Crown should make a requisition to the Colonies for a sum of money, would they grant it?

A. I believe they would.

Q. Why do you think so?

A. I can speak for the Colony I live in; I had it in instruction from the assembly to assure the ministry, that as they always had done, so they should always think it their duty to grant such aids to the Crown as were suitable to their circumstances and abilities, whenever called upon for the purpose, in the usual constitutional manner;...

Q. Would they grant money alone, if called on?

A. In my opinion they would, money as well as men, when they have money, or can make it...

Q. Does the distinction between internal and external taxes exist in the words of the charter?

A. No, I believe not.

Q. Then may they not, by the same interpretation, object to the parliament's right of external taxation?

A. They never have hitherto. Many arguments have been lately used here to shew them that there is no difference, and that if you have no right to tax them internally, you have none to tax them externally, or make any other law to bind them. At present they do not reason so, but in time they may possibly be convinced by these arguments. . .

Q. What used to be the pride of the Americans?

A. To indulge in the fashions and manufactures of Great-Britain.

Q. What is now their pride?

A. To wear their old cloaths over again, till they can make new ones.

34. THE DECLARATORY ACT

To save the claims of Parliament to tax the colonies and legislate over them, Parliament, in repealing the Stamp Act passed the following act, March 18, 1766, affirming the right of Parliament to bind the colonies in all cases whatsoever.

Pickering, Statutes at Large, Vol. 27, pp. 19-20. Cambridge, 1767.

WHEREAS *several of the houses of representatives in his Majesty's colonies and plantations in America, have of late, against law, claimed to themselves, or to the general assemblies of the same, the sole and exclusive right of imposing duties and taxes upon his Majesty's subjects in the said colonies and plantations; . . be it declared by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and common, in this present parliament assembled, . . That the said colonies and plantations in America have been, are, and of right ought to be, subordinate unto, and dependent upon the imperial crown and parliament of Great Britain; and that the King's majesty, . . with the advice and consent of the lords . . and commons of Great Britain, in parliament assembled, had, hath, and of right ought to have, full power and authority . . to bind the colonies and people of America, subjects of the crown of Great Britain, in all cases whatsoever.*

II. And be it further declared and enacted by the authority aforesaid, That all resolutions, votes, orders, and proceedings, in any of the said colonies or plantations, whereby the power and authority of the parliament of *Great Britain*, to make laws and statutes as aforesaid, is denied, or drawn into question, are, and are hereby declared to be, utterly null and void to all intents and purposes whatsoever.

35. THE TOWNSHEND ACT

Charles Townshend, a rebellious member of the Chatham-Grafton ministry, in defiance of the wishes of his fellow ministers put forward a series of acts known as the Townshend Acts, reopening the difficulty with the colonies. The act that follows levied import duties on the colonies to take advantage of their supposed willingness to pay external taxes. The act passed June 29, 1767.

Pickering, Statutes at Large, Vol. 27, pp. 505-509. Cambridge, 1767.

WHEREAS it is expedient that a revenue should be raised, in your Majesty's dominions in America, for making a more certain and adequate provision for defraying the charge of the administration of justice, and the support of civil government, in such provinces where it shall be found necessary; and towards further defraying the expences of defending, protecting, and securing, the said dominions; we, . . the commons of Great Britain, . . have therefore resolved to give and grant unto your Majesty the several rates and duties herein after mentioned; . . That from and after the twentieth day of November, one thousand seven hundred and sixty seven, there shall be raised . . and paid, unto his Majesty, . . upon the respective goods herein after mentioned, which shall be imported from *Great Britain* into any colony or plantation in *America* . . under the dominion of his Majesty, . . the several rates and duties following; that is to say,

For every hundred weight avoirdupois of crown, plate, flint, and white glass, four shillings and eight pence.

For every hundred weight avoirdupois of green glass, one shilling and two pence.

For every hundred weight avoirdupois of red lead, two shillings.

For every hundred weight avoirdupois of white lead, two shillings.

For every hundred weight avoirdupois of painters colours, two shillings.

For every pound weight avoirdupois of tea, three pence.

For every ream of paper, usually called or known by the name of *Atlas Fine*, twelve shillings. . .¹

II. And it is hereby enacted by the authority aforesaid, That all other paper (not being particularly rated and charged in this act) shall pay the several and respective duties that are charged, by this act, upon

¹ Here follow two and one-half pages of duties on other grades of paper.

such paper as is nearest above in size and goodness to such unrated paper...

IV. And it is hereby further enacted... That the said rates and duties, .. are ... sterling money of *Great Britain*; ..

V. And be it further enacted by the authority aforesaid, That his Majesty ... shall be, .. impowered, .. to cause such monies to be applied, out of the produce of the duties granted by this act, as his Majesty ... shall think proper or necessary, for defraying the charges of the administration of justice, and the support of the civil government, within all or any of the said colonies or plantations.

36. THE NORTH CAROLINA REGULATORS

Abuses of administration in the under-represented up-country of North Carolina provoked a popular uprising against colonial authorities known as the Regulator Movement. It was significant of the social and economic unrest that in one sense marks the American Revolution, the rising of the lower classes against their governors. The following letter states the point of view of the governing classes.

William L. Saunders, The Colonial Records of North Carolina, Vol. 8, pp. 241-244. Raleigh, 1890.

Letter from Judge Henderson to Governor Tryon

GRANVILLE Sep^r 29th 1770.

SIR,

With the deepest concern for my Country I have lately been witness to a scene which not only threatened the peace and well being of this Province for the future, but was in itself the most horrid and audacious insult to Government, perpetrated with such circumstances of cruelty and madness as (I believe) scarcely has been equaled at any time. However flattering your Excellency's prospects may have been with respect to the people called Regulators, their late conduct too sufficiently evince that a wise, mild and benevolent administration comes very far short of bringing them to a sense of their duty. They are abandoned to every principle of virtue and desperately engaged not only in the most shocking barbarities but a total subversion of the Constitution.

On Monday last being the second day of Hillsborough Superior Court, early in the morning the Town was filled with a great number of these people shouting, hallooing & making a considerable tumult in the streets. At about 11 o'clock the Court was opened, and immediately the House filled as close as one man could stand by another ... few or

none without some weapon. When the House had become so crowded that no more could well get in, one of them (whose name I think is called Fields) came forward and told me he had something to say before I proceeded to business. . . Upon my informing Fields that he might speak on he proceeded to let me know that he spoke for the whole Body of the People called Regulators. That they understood that I would not try their causes, and their determination was to have them tried, for they had come down to see justice done and justice they w^d have, and if I would proceed to try those causes it might prevent much mischief . . . Thus I found myself under a necessity of attempting to soften and turn away the fury of this mad people, in the best manner in my power, and as much as could well be, pacifie their rage and at the same time preserve the little remaining dignity of the Court. The consequence of which was that after spending upwards of half an hour in this disagreeable situation the mob cried out "Retire, retire, and let the Court go on." Upon which most of the regulators went out and seemed to be in consultation in a party by themselves.

The little hopes of peace derived from this piece of behaviour were very transient, for in a few minutes M^r Williams an Attorney of that Court was coming in and had advanced near the door when they fell on him in a most furious manner with Clubs and sticks of enormous size and it was with great difficulty he saved his life by taking shelter in a neighbouring Store House. M^r Fanning was next the object of their fury, him they seized and took with a degree of violence not to be described from off the bench where he had retired for protection and assistance and with hideous shouts of barbarian cruelty dragged him by the heels out of doors, while others engaged in dealing out blows with such violence that I made no doubt his life would instantly become a sacrifice to their rage and madness. However M^r Fanning by a manly exertion miraculously broke holt and fortunately jumped into a door that saved him from immediate dissolution. During the uproar several of them told me with oaths of great bitterness that my turn should be next. I will not deny that in this frightful affair my thoughts were much engaged on my own protection, but it was not long before James Hunter and some other of their Chieftains came and told me not to be uneasy for that no man should hurt me on proviso I would set and hold Court to the end of the term.

I took advantage of this proposal and made no scruple at promising what was not in my intention to perform for the Terms they would admit me to hold Court on were that no Lawyer, the King's Attorney excepted, should be admitted into Court, and that they would stay and see justice impartially done.

It would be impertinent to trouble your Exc^y with many circumstances that occurred in this barbarous riot, Messrs. Thomas Hart, Alexander Martin, Michael Holt, John Litterell (Clerk of the Crown) and many others were severely whipped. Col. Gray, Major Lloyd, M^r Francis Nash, John Cooke, Tyree Harris and sundry other persons timorously made their escape or would have shared the same fate. In about four or five hours their rage seemed to subside a little and they permitted me to adjourn Court and conducted me with great parade to my lodgings. Col^o Fanning whom they had made a prisoner of was in the evening permitted to return to his own House on his word of honour to surrender himself next day. At about ten o'clock that evening, I took an opportunity of making my escape by a back way, and left poor Col. Fanning and the little Borough in a wretched situation.

Thus far may it please your Excellency with respect to what came within my own knowledge, since my departure many different & authentick accounts say that the mob not contented with the cruel abuse they had already given M^r Fanning in which one of his eyes was almost beaten out, did the next day actually determine to put him immediately to death, but some of them a little more humane than the rest interfered & saved his life. . . They soon after to consummate their wicked designs, broke and entered his Mansion House, destroyed every article of furniture and with axes & other instruments laid the Fabrick level with its foundation, broke and entered his Cellar and destroyed the contents, his Papers were carried into the streets by armfulls and destroyed, his wearing apparel shared the same fate; I much fear his Office will be their next object. . .

This Express has been delayed two days in expectation of obtaining from M^r Fanning a more particular account of the damage done him as well as the rest of the Inhabitants of that desolate Borough, but as the persons whom I sent for that purpose are not yet returned, think it my duty to forward this with the utmost expedition. Should my conduct through the transactions merit your approbation it will greatly add to the felicity of Sir,

Your Excell^{cy's} most obedient
and obliged humble servant

RICHARD HENDERSON.

To his Excellency Governor Tryon.

P. S. My Express has this instant arrived from Hillsborough with the following accounts, Colonel Fanning is alive and well as could be expected. The Insurgents left the Town on Wednesday night having

done very little mischief after spoiling M^r Fanning's House except breaking the windows of most of the Houses in Town, among which M^r Edward's did not escape. The merchants and others are taking possession of their shattered Tenements. M^r Fanning's House is not quite down, a few timbers support the lower story, but they are cut off at the sills and a small breeze of wind will throw down the little that remains. Everything else that we heard respecting M^r Fanning is true with this addition that he lost upwards of two hundred pounds in cash. . .

37. THE BOSTON TEA PARTY

Contemporary accounts of a famous event. The first extract is from a letter of John Andrews and published in the Proceedings of the Massachusetts Historical Society, 1864-1865, pp. 325-326. The second is from the Diary of Thomas Newell, 1773, pp. 215-219. Boston, 1860.

December 18th. However precarious our situation may be, yet *such* is the present calm composure of the people that a stranger would hardly think that ten thousand pounds sterling of the East India Company's *tea* was destroy'd the night, or rather evening before last, yet its a serious truth; . . The affair was transacted with the greatest regularity and despatch. Mr. Rotch . . . absolutely declar'd his vessel should not carry it, [the tea], without a *proper* clearance could be procur'd or he to be indemnified for the value of her:— when a general muster was assembled, from this and all y^e neighbouring towns, to the number of five or six thousand, at 10 o'clock Thursday morning in the Old South Meeting house, where they pass'd a *unanimous* vote that the *Tea* should go out of the *harbour* that afternoon, . . when I found the moderator was just declaring the meeting to be *dissolv'd*, which caused another general shout, out doors and in, and three cheers. What with that, and the consequent noise of breaking up the meeting, you'd thought that the inhabitants of the infernal regions had broke loose. For my part, I went contentedly home and finish'd my tea, but was soon inform'd what was going forward: but still not crediting it without ocular demonstration, I went and was *satisfied*. They muster'd, I'm told, upon Fort Hill, to the number of about two hundred, and proceeded, two by two, to Griffin's wharf, where Hall, Bruce, and Coffin lay, each with 114 chests of the *ill fated* article on board; . . and before *nine* o'clock in y^e evening, every chest from on board the three ves-

sels was knock'd to pieces and flung over y^e sides. They say the actors were *Indians* from *Narragansett*. Whether they were or not, to a transient observer they appear'd as *such*, being cloath'd in Blankets with the heads muffled, and copper color'd countenances, being each arm'd with a hatchet or axe, and pair pistols, nor was their *dialect* different from what I conceive these geniusses to *speak*, as their jargon was unintelligible to all but themselves. Not the least insult was offer'd to any person, save one Captain Conner . . . who had ript up the lining of his coat and waistcoat under the arms, and watching his opportunity had nearly fill'd 'em with tea, but being detected, was handled pretty roughly. They not only stripped him of his cloaths, but gave him a coat of mud, with a severe bruising into the bargain; and nothing but their utter aversion to make *any* disturbance prevented his being tar'd and feather'd.

From the Diary of Thomas Newell for 1773.

. . . Nov. 18. — Town-meeting. A Committee was appointed to acquaint the tea-commissioners it was the desire of the town that they would now give a final answer to their request; viz., whether they would resign their appointment. Upon which they sent into the town the following letter; viz., —

“SIR, — In answer to the message we have this day received from the town, we beg leave to say, that we have not yet received any orders from the East-India Company respecting the expected teas: but we are now further acquainted, that our friends in England have entered into penal engagements in our behalf, merely of a commercial nature; which puts it out of our power to comply with the request of the town.

“We are, sir, your most humble servants,

“RICHARD CLARK AND SONS.

BENJ. FANEUIL, Jun., for self and

JOSHUA WINSLOW, Esq.

ELISHA HUTCHINSON, for my brother

and self.

“Hon. JOHN HANCOCK, Esq., Moderator of Town-meeting assembled at Faneuil Hall.”

The answer was voted not satisfactory, and the meeting was immediately dissolved.

Nov. 28. — Captain Hall, from London in eight weeks, brought 114 chests of the so much detested East-India Company's tea.

Nov. 29. — This morning, the following notification was posted up in all parts of the town; viz., —

“FRIENDS, BRETHREN, COUNTRYMEN, — That worst of plagues, the detested tea shipped for this port by the East-India Company, is now arrived in this harbor. The hour of destruction, or manly opposition to the machinations of tyranny, stares you in the face. Every friend to his country, to himself, and posterity, is now called upon to meet at Faneuil Hall, at nine o'clock this day (at which time the bells will ring), to make a united and successful resistance to this last, worst, and destructive measure of administration.”

The people accordingly met at Faneuil Hall, and voted that the tea, now arrived in Captain Hall, shall be returned to the place from whence it came, at all events. The hall could not contain all the people, and they immediately adjourned to the Old South Meeting-house.

It was voted that a watch be appointed, to consist of twenty-five men. . .

DEC. 2. — Captain Bruce, eight weeks from London, with 116 chests of that detestable tea.

DEC. 14. — The following handbill was posted up, viz., —

“FRIENDS, BRETHREN, COUNTRYMEN, — The perfidious art of your restless enemies to render ineffectual the late resolutions of the body of the people demand your assembling at the Old South Meeting-house precisely at two o'clock, at which time the bells will ring.”

The Sons of Freedom accordingly met at the Old South, and adjourned till Thursday, the 16th inst.

Dec. 16. — The Sons of Freedom mustered according to adjournment. The people ordered Mr. Rotch, owner of Captain Hall's ship, to make a demand for a clearance, of Mr. Harrison, the Collector of the Customs (and *there* was refused a clearance for his ship). The body desired Mr. Rotch to protest against the Custom House, and apply to the Governor for his pass for the Castle. He applied accordingly, and the Governor refused to give him one. The people, finding all their efforts useless to preserve the East-India Company's tea, at night dissolved the meeting. But behold what followed! The same evening, a number of brave men (some say Indians), in less than three hours, emptied every chest of tea, on board the ships commanded by Captains Hall, Bruce, and Coffin, into the sea (amounting to 342 chests).

38. WESTERN UNREST

The following letter was addressed in March 1773, to the Earl of Dartmouth; then Secretary of State for the Colonies. The writer's prejudice against the American cause is apparent but, nevertheless, he states with graphic effect, the flood of population into the western country and the problem of subjecting it to imperial control. The Quebec Act (No. 43) represented the last attempt of the British ministry to deal with the situation that brought about the American Revolution in the west.

From a transcript from the Dartmouth MSS. in the Library of the University of Illinois.

London March the 1773—

MY LORD.

You will I hope Excuse the Liberty I thus take of addressing You as I am an Intire Stranger to Your Lordship. Nothing but the Good wishes for the Prosperity and Wellfare of my King and Countrey induces me to it. From this Motive I inform You That I am a person who trade largely to the different Colonies in North America, And once in two or three Years I take a Voiage there to collect my debts and am thereby obliged to Ride through the Governm^{ts} of New England New York, and Pennsilvania, and have been much & Sorrowfully Concerned to observe a Disposition too generally prevailing among very great Numbers of the Inhabitants, to what They stile Liberty, Which I think Savours too much of Rebellion — This has been too Evident to the Ministry to have been greatly Growing in the New England Governments for Some Years past, and more so latterly. — Their Public News papers are filled with Incendiary Papers, some of Which I make no doubt your Lordship has seen and Read, but were you to apply to the New England Coffee houses to peruse them, as They are All sent over by the trading Ships at different times, You Would be able to discover more clearly and fully the Disposition of those Uneasy People, or if Your Lordship does not Chuse to apply to those Coffee houses Y^rSelf, you might appoint Some trusty Person in Your Behalf to Examine & Read them for you, and Give you a faithfull Acco^t of what they read.

I should do my King and Countrey Injustice Were I not to Inform You, That this Same Rebellious Sentiment prevails & Spreads fast through some of the Other Colonies, & particularly in their Back Parts or Frontiers, and will want the Strict Eye & Observation of those

who are at the Helm of Government—For Instance, Pennsylvania Frontiers are now Settled by a Large Banditti of these People Some of whom bid that Governmt Defiance—Murders and Robberys have been Committed on Some of the Inhabitants, & on Many Indians, Large Rewards have been offered for taking the Perpetrators, and Proclamations Issued by the Governors of y^t Province but to no Purpose.—They bid Defiance, have a Rendezvous which they have been fortifying and No Kings Civil Officer dare touch them, Or Should Any One of them be taken & Confined He would be rescued by Others of the Same dispositions among them. This Every One in that Government Knows to be the Case, And the most Thoughtful among them are Under the Greatest Uneasiness on Acco^t of it, and that they know this Riotous Disposition prevails Greatly, and that Very Great Numbers are daily adding to them, not Only from among the Frontier People themselves of that & the Neighbouring Provinces, but from the Shoals & Incredible Number of Irish; who Yearly arrive, And as soon as arrived, travel back to the frontiers of That Province, also of Maryland, and of Virginia to seek New Settlements and most of these New Comers are of late Years of those Called, *White Boys*, *Hearts of Oak*, & *Hearts of Steel*, who your Lordship must allow to be of the most Dangerous Sort of People, and the More so when they are to Join and Settle with those of such Riotous dispositions as I have mentioned, & It is known That Some of those Who arrived there this last year have been some of the Worst of the Heads of Those Called *Hearts of Steel* in Ireland, It is also known That most of those who opposed Govern^r Tryon in North Carolina are Settled and Settling on the Frontiers of the Province of Pennsylvania & of Virginia—

Could Your Lordship find persons you Could Confide in, Who Would Give you a Faithful and true acco^t of the vast Increase of Inhabitants, and their Yearly Extensive Settlements to the Westward, you would be Astonished, & Could The Ministry know it, They would be Greatly Alarmed—What must be Consequence of a Countrey filled with People for 300 miles back to the Westward of the Province of Pennsylvania, and Extending in the same Manner back of Maryland, Virginia, North & south Carolina, so as to make a Regular Connected Chain from New England to Georgia, & how alarming when The Chief part of these Back Inhabitants, as They are termed, are Composed of an Uncultivated Banditti, collected as I have before mentioned from the Out Casts of the several Provinces, & Joined & filling with those from Ireland, &c—perhaps your Lordship would scarcely think it Credible, That from 8 to ten thousand people have been Imported into Pennsylvania in one year from Ireland only, but I think

I may assert it for a Truth, and that These People Yearly flock over in such Shoals into that and the Neighbouring Provinces. — As a Regular Acco.^l is kept in the City of Philadelphia by M^r. Thomas Coombe (The Health Officer there as He is termed) of all Strangers who Arrive, Whether Irish, Dutch, or Others, Your Lordship might readily on Application have that sent you yearly — From This Your Lordship might readily form a Judgement of the Increase of the People from Strangers Only, Besides The Great Numbers yearly born in that Province, & These People yearly & Constantly travel back to The Frontiers, and make New Settlements, that from Spring to Fall the Back Roads are lined with them. This being really the Case How is this Multitude of People in this Vast Extent of *Inland Countrey* to be Governed, & How much, And how much Greater, When This New Countrey lately Granted to y^e Westward of the Ohio becomes settled, Will the Difficulty be — What Force can be raised & Carried against them into Such an *Interior part* of the Countrey to quell & Govern them in Case They should be Rebellious? It will Very soon My Lord become a Very Serious Affair Therefore the Sooner The Situation of this Difficulty and Danger is understood by the Ministry, the Better, for as I have mentioned, The Same Licentious Way of Thinking the People of New England have, prevails & Encreases too much in General among these People. And by Their Weekly publishing their Licentious Sentiments of, and On Government, They tend to Poison the Minds of them — What Can your Lordship think must be the Event? Can it be Any Other in a few Years than An Endeavour to throw off their Dependance on England and Obedience to Parliamentary Laws, & Instructions from the Crown. — Be assured It will be the Case. These People are already almost Ripe for it & only Want some Bold Psons to head & Lead them On Who have Money & Abilities, & It is to be feared some Such are Near Ready to burst forth and Shew themselves. — How Necessary is it then to take all the most prudent Measures to Cool and Quiet the present Tumults in New England, and to keep a Careful Watchful Eye over Them, and All The Other Colonies, and as Quietly and Judiciously as may be Pave a Way for Regaining their Affections, & by Degrees bring them to Obedience to their Kind and his Laws — I neither pretend to Abilities or Understanding to attempt to Point out or to direct to your Lordship, It will Require the Wisest heads among y^e Ministry to Join and form a Plan, Rough threatning Measures I think will never tend so much to Reconcile as Those of a More Lenient mild Nature. — The Governors You Send over to the Several Colonies Should be Men of *Abilities, Honesty, and Honor*, The General Interest of the Nation requires it greatly,

Not Men who perhaps want a Living & may have Friends at Court; But Men of such principles as I have mention^d, who have the *Good of their King and Countrey at heart*. It is from a Principle of this Nature Only That I have been induced to give Your Lordship These Honest Plain Hints of the Dangerous Situation of the Colonies — You may be Assured They are all true, And the more Your Lordship inquires into their Nature and Matters of Fact, The More you will be Alarmed, and More Cause you will find to make further Enquiry yearly, into the State and Increase of All The Colonies, and Their Settlements — I wish I Could Say That I had No Reason to believe That the Incendiary Libertine Pieces Published here in England since The Unhappy Noise about Wilkes &c^a Wherein They have not Even Spared his Majesty, tended to poison the Colonists with the same Kind of Licentious Libertine Sentiments — I shall take my Leave having done what I Conceived to be my Duty & Beg Y^r Lordship's Pardon for the Freedom I have taken & subscribe with Great Esteem.

Yours Lordship^s

Humble Servant

Charles Smith

39. THE BOSTON PORT ACT

One of the "Intolerable Acts" passed in retaliation for the Boston Tea Party, March 31, 1774.

Pickering, Statutes at Large, Vol. 30, pp. 336-340.

CAP. XIX.

An act to discontinue, in such manner, and for such time as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares, and merchandise, at the town, and within the harbour, of Boston, in the province of Massachuset's Bay, in North America.

WHEREAS dangerous commotions and insurrections have been fomented and raised in the town of Boston, in the province of Massachuset's Bay, in New England, by divers ill-affected persons, . . in which commotions and insurrections certain valuable cargoes of teas . . and on board certain vessels lying within the bay . . of Boston, were seized and destroyed: . . be it enacted . . That from and after the first day of June, one thousand seven hundred and seventy-four, it shall not be lawful for any person . . whatsoever to lade put, or cause . . to be laden or put, off . . any quay, wharf, or other place, within the said town of Boston, or in . . the bay, commonly called *The Harbour of*

Boston, . . . into any ship, vessel . . . or bottom, any . . . merchandise whatsoever, to be . . . carried into any other . . . place whatsoever . . . or to . . . discharge . . . within the said town . . . out of any boat . . . vessel, or bottom, any . . . merchandise whatsoever, to be brought from any other . . . place, . . . upon pain of the forfeiture of the said goods, . . . and of the said boat, . . . and of the guns, . . . furniture, and stores, . . . belonging to the same: . . . whenever it shall be made to appear to his Majesty, in his privy council, that peace and obedience to the laws shall be so far restored in the said town of *Boston*, that the trade of *Great Britain* may safely be carried on there, and his Majesty's customs duly collected . . . it shall . . . be lawful for his Majesty, by proclamation, or order of council, to assign . . . the extent . . . of the port or harbour of *Boston*, . . . and also to assign . . . so many open places, quays, and wharfs, within the said harbour, . . . for the landing, . . . and shipping of goods, as his Majesty . . . shall judge necessary and expedient; and also to appoint . . . so many officers of the customs therein as his Majesty shall think fit; after which it shall be lawful for any person or persons to lade . . . or to discharge and lend upon, such wharfs, quays, and places, so appointed within the said harbour, . . . any goods, . . . whatever . . .

X. Provided also, . . . That nothing herein contained shall . . . enable his Majesty to appoint such port . . . wharfs . . . or officers, in the said town of *Boston*, . . . until it shall appear to his Majesty that full satisfaction hath been made by or on behalf of the inhabitants of the said town of *Boston* to the united company of merchants of *England* trading to the East Indies, for the damage sustained by the said company by the destruction of their goods sent to the said town of *Boston*, on board certain ships or vessels as aforesaid; and until it shall be certified to his Majesty . . . that reasonable satisfaction hath been made to the officers of his Majesty's revenue, and others, who suffered by the riots and insurrections above mentioned, in the months of *November* and *December*, in the year one thousand seven hundred and seventy-three, and in the month of *January*, in the year one thousand seven hundred and seventy-four.

40. THE GOVERNMENT OF MASSACHUSETTS ACT

One of the so-called "Intolerable Acts" passed by the British Parliament in retaliation for the Boston Tea Party. Its date is May 20, 1774. Pickering, Statutes at Large, Vol. 30, pp. 381-385.

WHEREAS by letters patent under the great seal of England, made in the third year of the reign of their late majesties King William and

Queen Mary, for uniting, erecting, and incorporating, the several colonies, territories, and tracts of land therein mentioned, into one real province, by the name of Their Majesties Province of the *Massachusetts Bay*, in *New England*; whereby it was, amongst other things, ordained and established, That the governor of the said province should, from thenceforth, be appointed and commissioned by their Majesties, their heirs and successors: It was, however, granted and ordained, .. the ... number of eight and twenty counsellors or assistants should yearly, ... be, by the general court or assembly, newly chosen: And whereas the said method of electing such counsellors ... hath, by repeated experience, been found to be extremely ill adapted to the plan of government established in the province of the *Massachusetts Bay*, .. and ... the manner of exercising the powers, authorities, and privileges aforesaid, by the persons so annually elected, hath, for some time past, been such as had the most manifest tendency to obstruct, and in great measure, defeat, the execution of the laws; to weaken the attachment of his Majesty's well-disposed subjects in the said province to his Majesty's government, and to encourage the ill-disposed among them to proceed even to acts of direct resistance to, and defiance of, his Majesty's authority: And it hath accordingly happened, that an open resistance to the execution of the laws hath actually taken place in the town of *Boston*. ... And whereas it is ... become absolutely necessary ... that the said method of annually electing the counsellors or assistants of the said province should no longer be suffered to continue. ... Be it therefore enacted ... That from and after the first day of *August*, one thousand seven hundred and seventy-four, so much of the charter, granted ... to the inhabitants ... of the *Massachusetts Bay*, in *New England* ... which relates to the time and manner of electing the assistants or counsellors for the said province, be revoked, .. and that the offices of all counsellors and assistants, elected ... in pursuance thereof, shall from thenceforth cease and determine: And that, from and after the said first day of *August*, one thousand seven hundred and seventy-four, the council, .. for the time being, shall be composed of such of the inhabitants ... within the same as shall be ... appointed by his Majesty, .. agreeable to the practice now used in respect to the appointment of counsellors in such of his Majesty's other colonies in *America*, the governors whereof are appointed by commission under the great seal of *Great Britain*: provided, that the number of the said assistants or counsellors shall not, at any one time, exceed thirty-six, nor be less than twelve. ...

III. And be it further enacted by the authority aforesaid, That from and after the first day of *July*, one thousand seven hundred and seventy-

four, it shall...be lawful for his Majesty's governor...to...appoint,..and also to remove, without the consent of the council, all judges of the inferior courts of common pleas, commissioners of *Oyer* and *Terminer*, the attorney general, provosts, marshals, justices of the peace, and other officers to the council or courts of justice belonging; ..

V. And be it further enacted by the authority aforesaid, That, from and after the said first day of *July*, one thousand seven hundred and seventy-four, it shall...be lawful for his Majesty's governor...to ...appoint the sheriffs without the consent of the council, and to remove such sheriffs with such consent, and not otherwise.

VI. And be it further enacted... That, upon every vacancy of the officers of chief justice and judges of the superior court of the said province, from and after the said first day of *July*... the governor... without the consent of the council, shall have full power and authority to... appoint the persons to succeed to the said offices, who shall hold their commissions during the pleasure of his Majesty...

VII. *And whereas, by several acts of the general court, which have been from time to time enacted and passed within the said province, the freeholders and inhabitants of the several townships... are authorised to assemble together, annually, or occasionally, upon notice given... for the choice of select men, constables, and other officers, and for the making and agreeing upon such necessary rules, orders, and bye-laws, for the... ordering, the prudential affairs of such townships... and whereas a great abuse has been made of the power of calling such meetings, and the inhabitants have, contrary to the design of their institution, been misled to treat upon matters of the most general concern, and to pass many dangerous and unwarrantable resolves: for remedy whereof, be it enacted, That from and after the said first day of August, one thousand seven hundred and seventy-four, no meeting shall be called by the select men, or at the request of any number of freeholders of any township... without the leave of the governor... in writing, expressing the special business of the said meeting, .. except the annual meeting in the months of March or May, for the choice of select men, constables, and other officers, .. and also, except any meeting for the election of a representative or representatives in the general court; and that no other matter shall be treated of at such meetings, except the election of their aforesaid officers or representatives, nor at any other meeting, except the business expressed in the leave given by the governor, or, in his absence, by the lieutenant-governor.*

VIII. *And whereas the method at present used in the province of Massachusetts Bay, in America, of electing persons to serve on grand juries, and other juries, by the freeholders and inhabitants of the several*

towns, affords occasion for many evil practices, and tends to pervert the free and impartial administration of justice: for remedy whereof, be it further enacted by the authority aforesaid, That, from and after ... the holding of the general sessions of the peace ... within the said province, next after the month of September, one thousand seven hundred and seventy-four, the jurors to serve ... in the several counties within the said province, shall not be elected ... by the freeholders and inhabitants of the several towns ... nor summoned or returned by the constables of the said towns; but that, from thenceforth, the jurors ... shall be summoned and returned by the sheriffs of the respective counties within the said province; and all writs ... to be issued for the return of jurors to serve at the said courts, shall be directed to the sheriffs of the said counties respectively, any law, custom, or usage, to the contrary notwithstanding.

41. ADMINISTRATION OF JUSTICE ACT

One of the "Intolerable Acts," passed May 20, 1774.

Pickering, Statutes at Large, Vol. 30, pp. 367-370.

WHEREAS *in his Majesty's province of Massachusetts Bay, in New England, an attempt hath lately been made to throw off the authority of the parliament of Great Britain over the said province, and an actual and avowed resistance, by open force, to the execution of certain acts of parliament, hath been suffered to take place, uncontrouled and unpunished, in defiance of his Majesty's authority, and to the utter subversion of all lawful government:.. be it enacted... That if any inquisition or indictment shall be found, or if any appeal shall be sued or preferred against any person, for murder, or other capital offence, in the province of the Massachusetts Bay, and it shall appear, by information given upon oath to the governor, .. that the fact was committed by the person ... either in the execution of his duty as a magistrate, for the suppression of riots ... or in acting in his duty as an officer of revenue, or in acting under the direction and order of any magistrate, for the suppression of riots, or for the carrying into effect the laws of revenue ... and it shall also appear, to the satisfaction of the said governor ... that an indifferent trial cannot be had within the said province, in that case, it shall and may be lawful for the governor ... to direct, with the advice and consent of the council, that the inquisition, indictment, or appeal, shall be tried in some other of his Majesty's colonies, or in Great Britain; .. taking a recognizance ... from such person, with sufficient sureties ... as the said governor ... shall deem*

reasonable, for the personal appearance of such person, if the trial shall be appointed to be had in any other colony, before the governor, or lieutenant-governor, or commander in chief of such colony; and if the trial shall be appointed to be had in *Great Britain*, then before his Majesty's court of *King's Bench*, at a time to be mentioned in such recognizances. . .

II. *And, to prevent a failure of justice, from the want of evidence on the trial of any such inquisition, indictment or appeal*, be it further enacted, That the governor . . . is hereby authorised and required, to bind . . . all such witnesses as the prosecutor or person against whom such . . . indictment shall be found . . . shall desire to attend the trial . . . for their personal appearance, at the time and place of such trial, to give evidence: . . . all prosecutors and witnesses, who shall be under recognizances to appear in any of his Majesty's colonies in *America*, or in *Great Britain*, in pursuance of this act, shall be free from all arrests . . . during their going to such colony, or coming to *Great Britain*, and their necessary stay and abiding there, on occasion of such prosecution, and returning again to the said province of the *Massachusset's Bay*.

IV. . . all . . . his Majesty's justices of the peace, and other justices and coroners, before whom any person shall be brought, charged with murder, or other capital crime, where it shall appear by proof, on oath, to such justices or coroners, that the fact was committed by such person, either in the execution of his duty as a magistrate . . . or in acting in his duty as an officer of revenue, or in acting under the direction and order of any magistrate, . . . are hereby authorised and required to admit every such person so brought before him or them, as aforesaid, to bail; any law, custom, or usage, to the contrary thereof in any-wise notwithstanding.

42. THE CALL OF THE FIRST CONTINENTAL CONGRESS

Earlier motions toward a Continental Congress had come from Virginia and Rhode Island. The Massachusetts lower house in the following resolutions, June 17, 1774, fixed the date and place for the meeting.

Peter Force, American Archives, Fourth Series, Vol. 1, pp. 421. Washington, 1837.

Massachusetts House of Representatives

THE late Honourable House of Representatives of this Province, having finished all the ordinary public business of importance that had been before them, on *Friday, June 17, 1774*, came into the following Reso-

lutions; present, one hundred and twenty-nine members, and only twelve dissentients, viz:

In the House of Representatives, June 17, 1774

This House having duly considered, and being deeply affected with the unhappy differences which have long subsisted, and are increasing, between *Great Britain* and the *American Colonies*, do resolve, that a meeting of Committees, from the several Colonies on this Continent is highly expedient and necessary, to consult upon the present state of the Colonies, and the miseries, to which they are, and must be reduced, by the operation of certain Acts of Parliament respecting *America*; and to deliberate and determine upon wise and proper measures to be by them recommended to all the Colonies, for the recovery and establishment of their just rights and liberties, civil and religious, and the restoration of union and harmony between *Great Britain* and the Colonies, most ardently desired by all good men.

Therefore, resolved, That the Honourable *James Bowdoin*, Esq., the Honourable *Thomas Cushing*, Esq., Mr. *Samuel Adams*, *John Adams*, and *Robert Treat Paine*, Esquires, be and they are hereby appointed a Committee on the part of this Province, for the purposes aforesaid, any three of whom to be a quorum, to meet such Committees Delegates from the other Colonies, as have been or may be appointed, either by their respective Houses of Burgesses or Representatives, or by Convention, or by the Committees of Correspondence appointed by the respective Houses of Assembly, to meet in the City of *Philadelphia*, or any other place that shall be judged most suitable by the Committee on the first day of *September* next; and that the Speaker of the House be directed, in a letter to the Speakers of the Houses of Burgesses or Representatives in the several Colonies, to inform them of the substance of these resolves.

43. THE QUEBEC ACT

Colonial public opinion listed the Quebec Act among the repressive acts of the British ministry. In one sense the act was the result of long ministerial deliberation as to the establishment of a just government in the province of Quebec. However there is no question that the extension of the bounds of Quebec to the Ohio and Mississippi rivers was intended to check frontier development and private purchases of land from the Indians and to keep the west as a preserve for the fur trade. This act was passed June 22, 1774.

Pickering, Statutes at Large, Vol. 30, pp. 549-553.

An act for making more effectual provision for the government of the province of Quebec, in North America.

.....

WHEREAS his Majesty, by his royal proclamation, bearing date the seventh day of October, in the third year of his reign, thought fit to declare the provisions which have been made in respect to certain countries, territories, and islands in America, ceded to his Majesty by the definitive treaty of peace, concluded at Paris, on the tenth day of February, one thousand seven hundred and sixty-three: . . may it therefore please your most excellent Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That all the territories, islands, and countries, in *North America*, belonging to the crown of *Great Britain*, bounded on the south by a line from the bay of *Chaleurs*, along the high lands which divide the rivers that empty themselves into the river *St. Lawrence*, from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river *Connecticut*, keeping the same latitude directly west, through the lake *Champlain*, until, in the same latitude, it meets the river *St. Lawrence*; from thence up the eastern bank of the said river, to the lake *Ontario*; thence through the lake *Ontario*, and the river commonly called *Niagara*; and thence along by the eastern and south-eastern bank of lake *Erie*, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the province of *Pensylvania*, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said province, until the said western boundary strike the *Ohio*: but in case the said bank of the said lake shall not be found to be so intersected, then following the said bank, until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said province of *Pensylvania*; and thence, by a right line, to the said north-western angle of the said province; and thence along the western boundary of the said province, until it strike the river *Ohio*; and along the bank of the said river, westward, to the banks of the *Mississippi*, and northward to the southern boundary of the territory granted to the merchants adventurers of *England*, trading to *Hudson's Bay*; and also all such territories, islands, and countries, which have, since the tenth of *February*, one thousand seven hundred and sixty-three, been made part of the government of *Newfoundland*, be, and they are hereby, during his Majesty's pleasure,

annexed to, and made part and parcel of, the Province of *Quebec*, as created and established by the said royal proclamation of the seventh of *October*, one thousand seven hundred and sixty-three.

.....

IV. *And whereas the provisions, made by the said proclamation, in respect to the civil government of the said province of Quebec, and the powers and authorities given to the governor, and other civil officers of the said province, by the grants and commissions issued in consequence thereof, have been found, upon experience, to be inapplicable to the state and circumstances of the said province, the inhabitants whereof amounted, at the conquest, to above sixty-five thousand persons professing the religion of the church of Rome, and enjoying an established form of constitution and system of laws, by which their persons and property had been protected, governed, and ordered, for a long series of years, from the first establishment of the said province of Canada; be it therefore further enacted by the authority aforesaid, That the said proclamation, so far as the same relates to the said province of Quebec, and the commission under the authority whereof the government of the said province is at present administered, and all and every the ordinance and ordinances made by the governor and council of Quebec for the time being, relative to the civil government and administration of justice in the said province, and all commissions to judges and other officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the first day of May, one thousand seven hundred and seventy-five.*

V. *And for the more perfect security and ease of the minds of the inhabitants of the said province, it is hereby declared, That his Majesty's subjects, professing the religion of the church of Rome of and in the said province of Quebec, may have, hold, and enjoy, the free exercise of the religion of the church of Rome, subject to the King's supremacy, declared and established by an act, made in the first year of the reign of Queen Elizabeth, over all the dominion and countries which then did, or thereafter should, belong to the imperial crown of this realm; and that the clergy of the said church, may hold, receive, and enjoy, their accustomed dues and rights, with respect to such persons only as shall profess the said religion.*

.....

VIII. *And be it further enacted by the authority aforesaid, That his Majesty's Canadian subjects, within the province of Quebec, the religious orders and communities only excepted, may also hold and enjoy their property and possessions, together with all customs and usages*

relative thereto, and all other their civil rights, in as large, ample, and beneficial manner, as if the said proclamation, commissions, ordinances, and other acts, and instruments, had not been made, and as may consist with their allegiance to his Majesty, and subjection to the crown and parliament of *Great Britain*; and that in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of *Canada*, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the courts of justice, to be appointed within and for the said province, by his Majesty, his heirs, and successors, shall, with respect to such property and rights, be determined agreeably to the said laws and customs of *Canada*, until they shall be varied or altered by any ordinances that shall, from time to time, be passed in the said province by the governor, lieutenant governor, or commander in chief, for the time being, by and with the advice and consent of the legislative council of the same, to be appointed in manner herein-after mentioned.

.....

XI. *And whereas the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants, from an experience of more than nine years, during which it has been uniformly administered; be it therefore further enacted by the authority aforesaid, That the same shall continue to be administered, and shall be observed as law, in the province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial; and the punishments and forfeitures thereby inflicted to the exclusion of every other rule of criminal law, or mode of proceeding thereon, which did or might prevail in the said province before the year of our Lord one thousand seven hundred and sixty-four; any thing in this act to the contrary thereof in any respect notwithstanding; subject nevertheless to such alterations and amendments, as the governor, lieutenant-governor, or commander in chief, for the time being, by and with the advice and consent of the legislative council of the said province, hereafter to be appointed, shall from time to time, cause to be made therein, in manner herein-after directed.*

XII. *And whereas it may be necessary to ordain many regulations for the future welfare and good government of the province of Quebec, the occasions of which cannot now be foreseen . . . and whereas it is at present inexpedient to call an assembly; be it therefore enacted by the authority aforesaid, That it shall and may be lawful for his Majesty, his heirs, and successors, by warrant under his or their signet, or sign manual, and with the advice of the privy council, to consti-*

tute and appoint a council for the affairs of the province of *Quebec*, to consist of such persons resident there, not exceeding twenty-three, nor less than seventeen, as his Majesty, his heirs, and successors, shall be pleased to appoint; and upon the death, removal, or absence, of any of the members of the said council, in like manner to constitute and appoint such and so many other person or persons as shall be necessary to supply the vacancy or vacancies; which council, so appointed and nominated, or the major part thereof, shall have power and authority to make ordinances for the peace, welfare, and good government, of the said province, with the consent of his Majesty's governor, or, in his absence, of the lieutenant-governor, or commander in chief, for the time being.

XIII. Provided always, That nothing in this act contained shall extend to authorise or empower the said legislative council to lay any taxes or duties within the said province, . .

44. THE MEETING OF THE FIRST CONTINENTAL CONGRESS

Taken from the diary of John Adams, one of the delegates, September 5, 1774.

C. F. Adams, The Works of John Adams, Vol. 2, pp. 365-368. Boston, 1850.

5. MONDAY. At ten the delegates all met at the City Tavern, and walked to the Carpenters' Hall. . . Then Mr. Lynch arose, and . . . proposed that the Honorable Peyton Randolph, Esquire, one of the delegates from Virginia, and the late Speaker of their House of Burgesses, should be appointed Chairman, and he doubted not it would be unanimous.

The question was put, and he was unanimously chosen.

Mr. Randolph then took the chair, and the commissions of the delegates were all produced and read.

Then Mr. Lynch proposed that Mr. Charles Thomson, a gentleman of family, fortune, and character in this city, should be appointed Secretary, which was accordingly done without opposition. . .

Mr. Duane then moved that a committee should be appointed to prepare regulations for this Congress. Several gentlemen objected.

I then arose and asked leave of the President to request of the gentleman from New York an explanation, and that he would point out some particular regulations which he had in his mind. He mentioned particularly the method of voting, whether it should be by Colonies, or by the poll, or by interests.

Mr. Henry then arose, and said this was the first General Congress which had ever happened; that no former Congress could be a precedent; that we should have occasion for more general congresses, and therefore that a precedent ought to be established now; that it would be great injustice if a little Colony should have the same weight in the councils of America as a great one, and therefore he was for a committee.

Major Sullivan observed that a little Colony had its all at stake as well as a great one. . .

Mr. Henry. Government is dissolved. Fleets and armies and the present state of things show that government is dissolved. Where are your landmarks, your boundaries of Colonies? We are in a state of nature, sir. . .

The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders, are no more. I am not a Virginian, but an American. . .

Mr. Lynch . . . I think that property ought to be considered, and that it ought to be a compound of numbers and property that should determine the weight of the Colonies.

I think it cannot be now settled. . .

Mr. Gadsden. I can't see any way of voting, but by Colonies. . .

Mr. Jay . . . I can't yet think that all government is at an end. The measure of arbitrary power is not full, and I think it must run over, before we undertake to frame a new constitution. . .

I am not clear that we ought not to be bound by a majority, though ever so small, but I only mentioned it as a matter of danger, worthy of consideration.

45. THE AMERICAN ASSOCIATION

The most important part of the work of the First Continental Congress was the adoption of a plan for a commercial boycott to bring the British government to terms. It was adopted October 20, 1774.

W. C. Ford, Journals of the Continental Congress, Vol. 1, pp. 75-80. Washington, 1904.

WE, his majesty's most loyal subjects, the delegates of the several colonies of New-Hampshire, Massachusetts-Bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, the three lower counties of New-Castle, Kent and Sussex, on Delaware, Maryland, Virginia, North-Carolina and South-Carolina, deputed to represent them in a continental Congress, held in the city of Philadelphia, on the 5th day

of September, 1774, avowing our allegiance to his majesty, our affection and regard for our fellow-subjects in Great-Britain and elsewhere, affected with the deepest anxiety, and most alarming apprehensions, at those grievances and distresses, with which his Majesty's American subjects are oppressed; and having taken under our most serious deliberation, the state of the whole continent, find, that the present unhappy situation of our affairs is occasioned by a ruinous system of colony administration, adopted by the British ministry about the year 1763, evidently calculated for enslaving these colonies, and, with them, the British empire. In prosecution of which system, various acts of parliament have been passed, for raising a revenue in America, for depriving the American subjects, in many instances, of the constitutional trial by jury, exposing their lives to danger, by directing a new and illegal trial beyond the seas, for crimes alleged to have been committed in America: and in prosecution of the same system, several late, cruel, and oppressive acts have been passed, respecting the town of Boston and the Massachusetts-Bay, and also an act for extending the province of Quebec, .. establishing an arbitrary government therein, and discouraging the settlement of British subjects in that wide extended country...

To obtain redress of these grievances, which threaten destruction to the lives, liberty, and property of his majesty's subjects, in North America, we are of opinion, that a non-importation, non-consumption, and non-exportation agreement, faithfully adhered to, will prove the most speedy, effectual, and peaceable measure: and, therefore, we do ... firmly agree and associate, under the sacred ties of virtue, honour and love of our country, as follows:

1. That from and after the first day of December next, we will not import, into British America, from Great-Britain or Ireland, any goods, wares, or merchandise whatsoever, .. nor will we, after that day, import any East-India tea from any part of the world; nor any molasses, syrups, paneles, coffee, or pimento, from the British plantations or from Dominica; nor wines from Madeira, or the Western Islands; nor foreign indigo.

2. We will neither import nor purchase, any slave imported after the first day of December next; after which time, we will wholly discontinue the slave trade...

3. As a non-consumption agreement, strictly adhered to, will be an effectual security for the observation of the non-importation, we ... agree ... that, from this day, we will not purchase or use any tea, imported on account of the East-India company, or any on which a duty hath been or shall be paid; and from and after the first day of March

next, we will not purchase or use any East-India tea whatever; nor will we . . . purchase or use any of those goods, wares, or merchandise, we have agreed not to import, which we shall know, or have cause to suspect, were imported after the first day of December, except such as come under the rules and directions of the tenth article hereafter mentioned.

4. The earnest desire we have, not to injure our fellow-subjects in Great-Britain, Ireland, or the West-Indies, induces us to suspend a non-exportation, until the tenth day of September, 1775; at which time, if the said acts and parts of acts of the British parliament herein after mentioned are not repealed, we will not . . . export any merchandise or commodity whatsoever to Great-Britain, Ireland, or the West-Indies, except rice to Europe.

5. Such as are merchants, and use the British and Irish trade, will give orders, . . not to ship any goods to them, on any pretence whatsoever, as they cannot be received in America; and if any merchant, residing in Great-Britain or Ireland, shall . . . ship any goods . . . in order to break the said non-importation agreement . . . on such unworthy conduct being well attested, it ought to be made public; and, on the same being so done, we will not, from thenceforth, have any commercial connexion with such merchant.

6. That such as are owners of vessels will . . . not . . . receive on board their vessels any goods prohibited by the said non-importation agreement. . .

7. We will use our utmost endeavours to improve the breed of sheep, and increase their number to the greatest extent . . . and those of us, who are or may become overstocked with, or can conveniently spare any sheep, will dispose of them to our neighbours, especially to the poorer sort, on moderate terms.

8. We will, in our several stations, encourage frugality, economy, and industry, and promote agriculture, arts and the manufactures of this country, especially that of wool; and will discountenance and discourage every species of extravagance and dissipation, . . and on the death of any relation or friend, none of us, . . will go into any further mourning-dress, than a black crape or ribbon on the arm or hat, for gentlemen, and a black ribbon and necklace for ladies, and we will discontinue the giving of gloves and scarves at funerals.

9. Such as are venders of goods or merchandise will not take advantage of the scarcity of goods, that may be occasioned by this association, but will sell the same at the rates we have been respectively accustomed to do, for twelve months last past. — And if any vender of goods or merchandise shall sell any such goods on higher terms . . . no .

person ought, nor will any of us deal with any such person . . . at any time thereafter, for any commodity whatever.

10. In case any . . . person, shall import any goods . . . after the first day of December, and before the first day of February next, the same ought forthwith, at the election of the owner, to be either re-shipped or delivered up to the committee of the county or town, wherein they shall be imported, to be stored at the risque of the importer, until the non-importation agreement shall cease, or be sold under the direction of the committee aforesaid; and in the last-mentioned case, the owner . . . shall be reimbursed out of the sales, the first cost and charges, the profit, if any, to be applied towards relieving and employing such poor inhabitants of the town of Boston, as are immediate sufferers by the Boston port-bill . . . and if any goods or merchandises shall be imported after the said first day of February, the same ought forthwith to be sent back again, without breaking any of the packages thereof.

11. That a committee be chosen in every county, city, and town, by those who are qualified to vote for representatives in the legislature, whose business it shall be attentively to observe the conduct of all persons touching this association; and when it shall be made to appear, to the satisfaction of a majority of any such committee, that any person within the limits of their appointment has violated this association, that such majority do forthwith cause the truth of the case to be published in the gazette; to the end, that all such foes to the rights of British-America may be publicly known, and universally contemned as the enemies of American liberty; and thenceforth we respectively will break off all dealings with him or her.

12. That the committee of correspondence, in the respective colonies, do frequently inspect the entries of their custom-houses, and inform each other, from time to time, of the true state thereof. . .

13. That all manufactures of this country be sold at reasonable prices. . .

14. And we do further agree and resolve, that we will have no trade, commerce, dealings or intercourse whatsoever, with any colony or province, in North-America, which shall not accede to, or which shall hereafter violate this association, but will hold them as unworthy of the rights of freemen, and as inimical to the liberties of their country.

And we do solemnly bind ourselves and our constituents, under the ties aforesaid, to adhere to this association, until such parts of the several acts of parliament passed since the close of the last war, as impose or continue duties on tea, wine, molasses, syrups, paneles, coffee, sugar, pimento, indigo, foreign paper, glass, and painters' colours,

imported into America, and extend the powers of the admiralty courts beyond their ancient limits, deprive the American subject of trial by jury, authorize the judge's certificate to indemnify the prosecutor from damages, that he might otherwise be liable to from a trial by his peers, require oppressive security from a claimant of ships or goods seized, before he shall be allowed to defend his property, are repealed. — And until that part of the act of the 12 G. 3. ch. 24, entitled "An act for the better securing his majesty's dock-yards, magazines, ships, ammunition, and stores," by which any persons charged with committing any of the offences therein described, in America, may be tried in any shire or county within the realm, is repealed — and until the four acts, passed the last session of parliament, viz. that for stopping the port and blocking up the harbour of Boston — that for altering the charter and government of the Massachusetts-Bay — and that which is entitled "An act for the better administration of justice, &c." — and that "for extending the limits of Quebec, &c." are repealed. And we recommend it to the provincial conventions, and to the committees in the respective colonies, to establish such farther regulations as they may think proper, for carrying into execution this association.

The foregoing association being determined upon by the Congress, was ordered to be subscribed by the several members thereof; and thereupon, we have hereunto set our respective names accordingly.

IN CONGRESS, PHILADELPHIA, *October 20, 1774.*

Signed,

PEYTON RANDOLPH, *President.*

46. THE ENFORCEMENT OF THE ASSOCIATION

Lord Dunmore, the royal governor of Virginia, in the following extract of a letter to the Earl of Dartmouth, the Secretary of State for the Colonies, bore testimony to the way in which the Association was enforced.

Force, American Archives, Fourth Series, Vol. 1, pp. 1061-1063.

Extract of a Letter from the Earl of Dunmore to the Earl of Dartmouth, Dated Williamsburg, December 24, 1774.

... THE Associations first in part entered into, recommended by the people of this Colony, and adopted by what is called the Continental Congress, are now enforcing throughout this country with the greatest rigour. A Committee has been chosen in every County, whose business it is to carry the Association of the Congress into execution, which Committee assumes an authority to inspect the books, invoices, and

all other secrets of the trade and correspondence of Merchants; to watch the conduct of every inhabitant, without distinction, and to send for all such as come under their suspicion into their presence; to interrogate them respecting all matters which, at their pleasure, they think fit objects of their inquiry; and to stigmatize, as they term it, such as they find transgressing what they are now hardy enough to call the Laws of the Congress, which stigmatizing is no other than inviting the vengeance of an outrageous and lawless mob to be exercised upon the unhappy victims. Every County, besides, is now arming a Company of men... for the avowed purpose of protecting their Committees, and to be employed against Government, if occasion require...

As to the power of Government,.. I can assure your Lordship that it is entirely disregarded, if not wholly overturned. There is not a Justice of the Peace in *Virginia* that acts, except as a Committee-man. The abolishing the Courts of Justice was the first step taken, in which the men of fortune and pre-eminence joined equally with the lowest and meanest. The General Court of Judicature of the Colony is much in the same predicament; for though there are at least a majority of his Majesty's Council, who, with myself, are the Judges of that Court, that would steadily perform their duty, yet the Lawyers have absolutely refused to attend, nor indeed would the people allow them to attend, or evidences to appear...

Independent Companies, &c., so universally supported, who have set themselves up superiour to all other authority, under the auspices of their Congress, the Laws of which they talk of in a style of respect, and treat with marks of reverence, which they never bestowed on their legal Government, or the Laws proceeding from it...

But, my Lord, every step which has been taken by these infatuated people, must inevitably defeat its own purpose. Their Non-Importation, Non-Exportation, &c., cannot fail in a short time to produce a scarcity, which will ruin thousands of families. The people, indeed, of fortune, may supply themselves and their negroes for two or three years, but the middling and poorer sort, who live from hand to mouth, have not the means of doing so; .. The lower class of people, too, will discover that they have been duped by the richer sort, who, for their part, elude the whole effects of the Association by which their poor neighbours perish. What, then, is to deter those from taking the shortest mode of supplying themselves? and unrestrained as they are by laws, from taking whatever they want wherever they can find it?

The arbitrary proceedings of these Committees, likewise, cannot fail of producing quarrels and dissensions, which will raise partisans of

Government; and I am firmly persuaded that the colony, even by their own acts and deeds, must be brought to see the necessity of depending upon its mother country, and of embracing its authority.

47. TREATMENT OF THE TORIES, 1775

A very large section of the population of the colonies, often from the upper classes, sympathized with the mother country in the struggle and in the end even armed in her behalf. The revolutionary party in the first years of the revolution repressed mercilessly all manifestations of sympathy with England of the so-called Tories. The two following selections are taken from Rivington's Gazette of March 9, 1775, a New York Tory organ. They are reprinted in Frank Moore's Diary of the American Revolution, Vol. 1, pp 36-42, New York, 1863...

THIS afternoon, at New York, as William Cunningham and John Hill, were coming from the North river, they stopped near the liberty-pole, to see a boxing match, but had not stood long when Cunningham was ... called Tory, and used in a most cruel manner by a mob ... Mr. Hill coming 'up to his assistance, was beaten and abused most barbarously, though neither of them gave the least offence, except being on the king's side of the question at the meeting this morning. The leaders of this mob brought Cunningham under the liberty pole, and told him to go down on his knees and damn his Popish king George, and they would then set him free; but on the contrary, he exclaimed, "God bless King George." They then dragged him through the green, tore the clothes off his back, and robbed him of his watch. They also insisted on Hill's damning the king, but he refusing, was used in the same manner, and were it not for some of the peace officers ... they would inevitably have been murdered.

MARCH 8.—A WRITER in Boston addresses the Provincial Congress of Massachusetts as follows:—

"Your assuming the government of Massachusetts Bay, makes it unnecessary for me to make any apology for addressing you in this public manner, further, than by acquainting you that it is to represent to you the distresses of some of those people, who, from a sense of their duty to the king, and a reverence for his laws, have behaved quietly and peaceably; and for which reason they have been deprived of their liberty, abused in their persons, and suffered such barbarous cruelties, insults, and indignities, besides the loss of their property, by the hands of lawless mobs and riots, as would have been disgraceful even for

savages to have committed... In August last, a mob in Berkshire forced the justices of the court of Common Pleas from their seats, and shut up the court-house. They also drove David Ingersoll from his house, and damaged the same, and he was obliged to leave his estate; .. At Taunton, Daniel Leonard, was driven from his house, and bullets fired into it by the mob, and he was obliged to take refuge in Boston, for the supposed crime of obeying his Majesty's requisition as one of his council for this province. Colonel Gilbert, of Freetown, a firm friend to government, in August last being at Dartmouth, was attacked at midnight by a mob of about an hundred, but by his bravery, with the assistance of the family where he lodged, they were beaten off. The same night Brigadier Ruggles was also attacked by another party, who were routed after having painted and cut the hair off of one of his horses's mane and tail... In September, Mr. Sewall, his Majesty's Attorney-General for Massachusetts Bay, was obliged to repair to Boston for refuge. His house at Cambridge was attacked by a mob, and his windows were broken... About the same time the Lieutenant-Governor Oliver, president of his Majesty's council, was attacked at Cambridge, by a mob of about four thousand, and was compelled to resign his seat at the board, since which, upon further threats, he has been obliged to leave his estate, and take refuge with his family in Boston... At Worcester, a mob of about five thousand collected, prevented the court of Common Pleas from sitting, (about one thousand of them had fire-arms,) and all drawn up in two files, compelled the judges, sheriffs, and gentlemen of the bar, to pass them with cap in hand, and read their disavowal of holding courts under the new acts of parliament, not less than thirty times in their procession... In August, Colonel Putnam of Worcester, a firm friend to Government, had two fat cows stolen and taken from him, and a very valuable grist-mill burnt, and was obliged to leave a fair estate in Worcester, and retire to Boston, where he has been ever since, for his protesting against riots, &c. Colonel Murray, of Rutland, one of his Majesty's council, has been obliged to leave a large estate in the country, and repair to Boston to save himself from being handled by the mob, and compelled to resign his seat at council board. His house has been attacked, his family put in fear...

"The Plymouth protesters, addressers, and military officers, were compelled by a mob of two thousand, collected from Plymouth and Barnstable counties, to recant and resign their military commissions. Thomas Foster, Esq., an ancient gentleman, was obliged to run into the woods, and had like to have been lost, and the mob, although the justices, with Mr. Foster, were sitting in the town, ransacked his

house, and damaged his furniture. He was obnoxious as a friend to government, and for that reason they endeavored to deprive him of his business. . . Jesse Dunbar, of Halifax, in Plymouth county, bought some fat cattle of Mr. Thomas the counsellor, and drove them to Plymouth for sale; one of the oxen being skinned and hung up, the committee came to him, and finding he bought it of Mr. Thomas, they put the ox into a cart, and fixing Dunbar in his belly, carted him four miles, and there made him pay a dollar, after taking three more cattle and a horse from him. The Plymouth mob delivered him to the Kingston mob, which carted him four miles further, and forced from him another dollar, then delivered him to the Duxborough mob, who abused him by throwing the tripe in his face, and endeavoring to cover him with it to the endangering his life. They then threw dirt at him, and after other abuses carried him to said Thomas's house, and made him pay another sum of money, and he not taking the beef, they flung it in the road and quitted him. . .

"The Honorable Israel Williams, Esq., one who was appointed of his Majesty's new council, but had declined the office through infirmity of body, was taken from his house by the mob in the night, carried several miles, put into a room with a fire, the chimney at the top, the doors of the room closed, and kept there for many hours in the smoke, till his life was in danger; then he was carried home, after being forced to sign what they ordered, and a guard placed over him to prevent his leaving the house. . ."

48. THE AMERICAN AND BRITISH REPORTS OF LEXINGTON AND CONCORD

Note how widely the two accounts vary. From such conflicting stories history has to be written.

Force, American Archives, Fourth Series, Vol. 2, pp. 391-392; 945-946.

Salem, April 25, 1775.

LAST *Wednesday* the 19th of *April*, the Troops of His *Britannick* Majesty commenced hostilities upon the people of this Province. . . The particulars relative to this interesting event, . . we have endeavoured to collect as well as the present confused state of affairs will admit.

On *Tuesday* evening a detachment from the Army, . . proceeded with silence and expedition on their way to *Concord*, about eighteen

miles from *Boston*. The people were soon alarmed, and began to assemble in several Towns, before daylight, in order to watch the motion of the Troops. At *Lexington*, six miles below *Concord*, a company of Militia, of about one hundred men, mustered near the Meeting-House; the Troops came in sight of them just before sunrise; and running within a few rods of them, the Commanding Officer accosted the Militia in words to this effect: "Disperse, you rebels — damn you, throw down your arms and disperse;" upon which the Troops huzzaed, and immediately one or two officers discharged their pistols, which were instantaneously followed by the firing of four or five of the soldiers, and then there seemed to be a general discharge from the whole body: eight of our men were killed, and nine wounded. In a few minutes after this action the enemy renewed their march for *Concord*; at which place they destroyed several Carriages, Carriage Wheels, and about twenty barrels of Flour, all belonging to the Province. Here about one hundred and fifty men going towards a bridge, of which the enemy were in possession, the latter fired and killed two of our men, who then returned the fire, and obliged the enemy to retreat back to *Lexington*, where they met Lord *Percy*, with a large reinforcement, with two pieces of cannon. The enemy now having a body of about eighteen hundred men, made a halt, picked up many of their dead, and took care of their wounded. At *Menotomy*, a few of our men attacked a party of twelve of the enemy, (carrying stores and provisions to the Troops,) killed one of them, wounded several, made the rest prisoners, and took possession of all their arms, stores, provisions, &c., without any loss on our side. The enemy having halted one or two hours at *Lexington*, found it necessary to make a second retreat, carrying with them many of their dead and wounded, who they put into chaises and on horses that they found standing in the road... notwithstanding their field-pieces, our people continued the pursuit, firing at them till they got to *Charlestown Neck*, (which they reached a little after sunset.) over which the enemy passed, proceeded up *Bunker's Hill*, and soon afterwards went into the Town, under the protection of the *Somerset* Man-of-War of sixty-four guns... the savage barbarity exercised upon the bodies of our unfortunate brethren who fell, is almost incredible: not contented with shooting down the unarmed, aged, and infirm, they disregarded the cries of the wounded, killing them without mercy, and mangling their bodies in the most shocking manner.

We have the pleasure to say, that, notwithstanding the highest provocations given by the enemy, not one instance of cruelty, that we have heard of, was committed by our victorious Militia; but,

listening to the merciful dictates of the Christian religion, they "breathed higher sentiments of humanity." . .

THE BRITISH ACCOUNT

Whitehall, June 10, 1775.

. . . General *Gage* having received intelligence of a quantity of military stores being collected at *Concord*, for the avowed purpose of supplying a body of troops to act in opposition to His Majesty's Government, detached, on the eighteenth of *April* at night, the Grenadiers of his Army, and the Light-Infantry, under the command of Lieutenant-Colonel *Smith*, of the Tenth Regiment, and Major *Pitcairn*, of the Marines, with orders to destroy the said stores; . .

Lieutenant-Colonel *Smith* finding, after he had advanced some miles on his march, that the country had been alarmed by the firing of guns and ringing of bells, despatched six Companies of Light-Infantry, in order to secure two bridges on different roads beyond *Concord*, who, upon their arrival at *Lexington*, found a body of the country people under arms, on a green close to the road; and upon the King's Troops marching up to them, in order to inquire the reason of their being so assembled, they went off in great confusion, and several guns were fired upon the King's Troops from behind a stone wall, and also from the meeting-house and other houses, by which one man was wounded, and Major *Pitcairn's* horse shot in two places. In consequence of this attack by the rebels, the troops returned the fire and killed several of them. After which the detachment marched on to *Concord* without any thing further happening, where they effected the purpose for which they were sent, having knocked off the trunnions of three pieces of iron ordnance, burnt some new gun carriages and a great number of carriage-wheels, and thrown into the river a considerable quantity of flour, gunpowder, musket-balls, and other articles. Whilst this service was performing, great numbers of the rebels assembled in many parts, and a considerable body of them attacked the Light-Infantry, posted at one of the bridges, on which an action ensued, and some few were killed and wounded.

On the return of the Troops from *Concord*, they were very much annoyed, and had several men killed and wounded by the rebels firing from behind walls, ditches, trees, and other ambushes; but the brigade, under the command of Lord *Percy*, having joined them at *Lexington* with two pieces of cannon, the rebels were for a while dispersed; but as

soon as the troops resumed their march, they began to fire upon them from behind stone walls and houses, and kept up in that manner a scattering fire during the whole of their march of fifteen miles, by which means several were killed and wounded; and such was the cruelty and barbarity of the rebels, that they scalped and cut off the ears of some of the wounded men who fell into their hands.

It is not known what numbers of the rebels were killed and wounded, but it is supposed that their loss was considerable...

49. DECLARATION OF THE CAUSES AND NECESSITY OF TAKING UP ARMS

Passed by the Second Continental Congress, July 6, 1775. It marks officially the transition from the use of commercial boycotts to the use of armed force. Independence was a step that had yet to be taken.

Ford, Journals of the Continental Congress, Vol. 2, pp. 140-157.

A declaration by the Representatives of the United Colonies of North America, now met in General Congress at Philadelphia, setting forth the causes and necessity of their taking up arms.

If it was possible for men, who exercise their reason, to believe, that the Divine Author of our existence intended a part of the human race to hold an absolute property in, and an unbounded power over others, marked out by his infinite goodness and wisdom, as the objects of a legal domination never rightfully resistible, however severe and oppressive, the Inhabitants of these Colonies might at least require from the Parliament of Great Britain some evidence, that this dreadful authority over them, has been granted to that body. But a reverence for our great Creator, principles of humanity, and the dictates of common sense, must convince all those who reflect upon the subject, that government was instituted to promote the welfare of mankind, and ought to be administered for the attainment of that end. The legislature of Great Britain, however, stimulated by an inordinate passion for a power, not only unjustifiable, but which they know to be peculiarly reprobated by the very constitution of that kingdom, and desperate of success in any mode of contest, where regard should be had to truth, law, or right, have at length, deserting those, attempted to effect their cruel and impolitic purpose of enslaving these Colonies by violence, and have thereby rendered it necessary for us to close with their last appeal from Reason to Arms.— Yet, however blinded that assembly

may be, by their intemperate rage for unlimited domination, so to slight justice and the opinion of mankind, we esteem ourselves bound, by obligations of respect to the rest of the world, to make known the justice of our cause.

Our forefathers, inhabitants of the island of Great Britain, left their native land, to seek on these shores a residence for civil and religious freedom. At the expence of their blood, at the hazard of their fortunes, without the least charge to the country from which they removed, by unceasing labor, and an unconquerable spirit, they effected settlements in the distant and inhospitable wilds of America, then filled with numerous and warlike nations of barbarians. Societies or governments, vested with perfect legislatures, were formed under charters from the crown, and an harmonious intercourse was established between the colonies and the kingdom from which they derived their origin. The mutual benefits of this union became in a short time so extraordinary, as to excite astonishment. It is universally confessed, that the amazing increase of the wealth, strength, and navigation of the realm, arose from this source; and the minister, who so wisely and successfully directed the measures of Great Britain in the late war, publicly declared, that these colonies enabled her to triumph over her enemies. . . The uninterrupted tenor of their peaceable and respectful behaviour from the beginning of colonization, their dutiful, zealous, and useful services during the war, though so recently and amply acknowledged in the most honorable manner by his majesty, by the late king, and by Parliament, could not save them from the meditated innovations. — Parliament was influenced to adopt the pernicious project, and assuming a new power over them, have, in the course of eleven years, given such decisive specimens of the spirit and consequences attending this power, as to leave no doubt concerning the effects of acquiescence under it. They have undertaken to give and grant our money without our consent. . . statutes have been passed for extending the jurisdiction of courts of Admiralty and Vice-Admiralty beyond their ancient limits; for depriving us of the accustomed and inestimable privilege of trial by jury, in cases affecting both life and property; for suspending the legislature of one of the colonies; for interdicting all commerce to the capital of another; and for altering fundamentally the form of government established by charter, and secured by acts of its own legislature solemnly confirmed by the crown; for exempting the “murderers” of colonists from legal trial, and in effect, from punishment; for erecting in a neighboring province, acquired by the joint arms of Great Britain and America, a despotism dangerous to our very existence; and for quartering soldiers upon the colonists in time of profound peace. It has also been resolved in par-

liament, that colonists charged with committing certain offences, shall be transported to England to be tried.

But why should we enumerate our injuries in detail? By one statute it is declared, that parliament can "of right make laws to bind us IN ALL CASES WHATSOEVER." What is to defend us against so enormous, so unlimited a power? Not a single man of those who assume it, is chosen by us; or is subject to our controul or influence; . . . We for ten years incessantly and ineffectually besieged the Throne as supplicants; we reasoned, we remonstrated with parliament in the most mild and decent language. But Administration sensible that we should regard these oppressive measures as freemen ought to do sent over fleets and armies to enforce them. . . . A Congress of Delegates from the United Colonies was assembled at Philadelphia, on the fifth day of last September. We resolved again to offer an humble and dutiful petition to the King, and also addressed our fellow-subjects of Great Britain. . .

Several threatening expressions against the colonies were inserted in his Majesty's speech; our petition, though we were told it was a decent one, and that his Majesty had been pleased to receive it graciously, and to promise laying it before his Parliament, was huddled into both houses amongst a bundle of American papers, and there neglected. The Lords and Commons in their address, in the month of February, said, that "a rebellion at that time actually existed within the province of Massachusetts bay; . . . Soon after, the commercial intercourse of whole colonies, with foreign countries, and with each other, was cut off by an act of Parliament; . . . and large re-inforcements of ships and troops were immediately sent over to General Gage.

Fruitless were all the entreaties, arguments, and eloquence of an illustrious band of the most distinguished Peers, and Commoners, who nobly and strenuously asserted the justice of our Cause, to stay, or even to mitigate the heedless fury with which these accumulated and unexampled outrages were hurried on. . . . General Gage, who . . . had taken possession of the town of Boston, . . . on the 19th day of April, sent out from that place a large detachment of his army, who made an unprovoked assault on the inhabitants of the said province, at the town of Lexington. . . . murdered eight of the inhabitants, and wounded many others. From thence the troops proceeded in warlike array to the town of Concord, where they set upon another party of the inhabitants of the same province, killing several and wounding more, until compelled to retreat by the country people suddenly assembled to repel this cruel aggression. . . .

The General, further emulating his ministerial masters, by a proclamation bearing date on the 12th day of June, after venting the grossest falsehoods and calumnies against the good people of these colonies,

proceeds to "declare them all, either by name or description, to be rebels and traitors, to supersede the course of the common law, and instead thereof to publish and order the use and exercise of the law martial." — His troops have butchered our countrymen, have wantonly burnt Charles-Town, besides a considerable number of houses in other places; our ships and vessels are seized; the necessary supplies of provisions are intercepted, and he is exerting his utmost power to spread destruction and devastation around him.

We have received certain intelligence that General Carleton, the Governor of Canada, is instigating the people of that province and the Indians to fall upon us; . . . We are reduced to the alternative of chusing an unconditional submission to the tyranny of irritated ministers, or resistance by force. — The latter is our choice. — We have counted the cost of this contest, and find nothing so dreadful as voluntary slavery. . . .

Our cause is just. Our union is perfect. Our internal resources are great, and if necessary, foreign assistance is undoubtedly attainable. — . . . the arms we have been compelled by our enemies to assume, we will, in defiance of every hazard, with unabating firmness and perseverance, employ for the preservation of our liberties; being with our [one] mind resolved to dye Free-men rather than live Slaves. . . . We have not raised armies with ambitious designs of separating from Great Britain, and establishing independent states. We fight not for glory or for conquest. . . .

In our own native land, in defence of the freedom that is our birth-right, and which we ever enjoyed till the late violation of it — for the protection of our property, acquired solely by the honest industry of our fore-fathers and ourselves, against violence actually offered, we have taken up arms. We shall lay them down when hostilities shall cease on the part of the aggressors, and all danger of their being renewed shall be removed, and not before.

With an humble confidence in the mercies of the supreme and impartial Judge and Ruler of the universe, we most devoutly implore his divine goodness to protect us happily through this great conflict, to dispose our adversaries to reconciliation on reasonable terms, and thereby to relieve the empire from the calamities of civil war.

By order of Congress,

JOHN HANCOCK,
President.

Attested,
CHARLES THOMSON,
Secretary.

50. A STATE GOVERNMENT IN THE REVOLUTION —
NEW HAMPSHIRE

The overthrow of the old governments in the royal and proprietary colonies made it necessary to substitute others for them. When this was first done the colonies had not passed from the stage of armed resistance to the declaration of their independence. Governments formed under such conditions necessarily had to be provisional. This is how New Hampshire dealt with the problem.

F. N. Thorpe, Federal and State Constitutions, Colonial Charters, and other Organic Laws, Vol. 4, pp. 2451-2453. Washington, 1909.

IN CONGRESS AT EXETER, "January 5, 1776.

VOTED, That this Congress take up CIVIL GOVERNMENT for this colony in manner and form following, viz.

WE, the members of the Congress of New Hampshire, chosen and appointed by the free suffrages of the people of said colony, and authorized and empowered by them to meet together, and use such means and pursue such measures as we should judge best for the public good; and in particular to establish some form of government, provided that measure should be recommended by the Continental Congress: And a recommendation to that purpose having been transmitted to us from the said Congress: Have taken into our serious consideration the unhappy circumstances, into which this colony is involved by means of the many grievous and oppressive acts of the British Parliament, depriving us of our natural and constitutional rights and privileges; to enforce obedience to which acts a powerful fleet and army have been sent to this country by the ministry of Great Britain, who have exercised a wanton and cruel abuse of their power, in destroying the lives and properties of the colonists in many places with fire and sword, taking the ships and lading from many of the honest and industrious inhabitants of this colony employed in commerce, agreeable to the laws and customs a long time used here.

The sudden and abrupt departure of his Excellency John Wentworth, Esq., our late Governor, and several of the Council, leaving us destitute of legislation, and no executive courts being open to punish criminal offenders; whereby the lives and properties of the honest people of this colony are liable to the machinations of evil designs of wicked men, *Therefore*, for the preservation of peace and good order, and for the security of the lives and properties of the inhabitants of

this colony, we conceive ourselves reduced to the necessity of establishing A FORM OF GOVERNMENT to continue during the present unhappy and unnatural contest with Great Britain; PROTESTING and DECLARING that we neaver sought to throw off our dependence upon Great Britain, but felt ourselves happy under her protection, while we could enjoy our constitutional rights and privileges. And that we shall rejoice if such a reconciliation between us and our parent State can be effected as shall be approved by the CONTINENTAL CONGRESS, in whose prudence and wisdom we confide.

Accordingly pursuant to the trust reposed in us, WE DO RESOLVE, that this Congress assume the name, power and authority of a house of Representatives or Assembly for the *Colony of New-Hampshire*. And that said House then proceed to choose twelve persons, being reputable freeholders and inhabitants within this colony, in the following manner, viz. five in the county of Rockingham, two in the county of Strafford, two in the county of Hillsborough, two in the county of Cheshire, and one in the county of Grafton, to be a distinct and separate branch of the Legislature by the name of a COUNCIL for this colony, to continue as such until the third Wednesday in December next; any seven of whom to be a quorum to do business. That such Council appoint their President, and in his absence that the senior counsellor preside; that a Secretary be appointed by both branches, who may be a counsellor, or otherwise, as they shall choose.

That no act or resolve shall be valid and put into execution unless agreed to, and passed by both branches of the legislature.

That all public officers for the said colony, and each county, for the current year, be appointed by the Council and Assembly, except the several clerks of the Executive Courts, who shall be appointed by the Justices of the respective Courts.

That all bills, resolves, or votes for raising, levying and collecting money originate in the house of Representatives.

That at any session of the Council and Assembly neither branch shall adjourn from any longer time than from Saturday till the next Monday without consent of the other.

And it is further resolved, That if the present unhappy dispute with Great Britain shall continue longer than this present year, and the Continental Congress give no instruction or direction to the contrary, the Council be chosen by the people of each respective county in such manner as the Council and house of Representatives shall order.

That general and field officers of the militia, on any vacancy, be appointed by the two houses, and all inferior officers to be chosen by the respective companies.

That all officers of the Army be appointed by the two houses, except they should direct otherwise in case of any emergency.

That all civil officers for the colony and for each county be appointed, and the time of their continuance in office be determined by the two houses, except clerks of Courts, and county treasurers, and recorders of deeds.

That a treasurer, and a recorder of deeds for each county be annually chosen by the people of each county respectively; the votes for such officers to be returned to the respective courts of General Sessions of the Peace in the county, there to be ascertained as the Council and Assembly shall hereafter direct.

That precepts in the name of the Council and Assembly, signed by the President of the Council, and Speaker of the house of Representatives, shall issue annually at or before the first day of November, for the choice of a Council and house of Representatives to be returned by the third Wednesday in December then next ensuing, in such manner as the Council and Assembly shall hereafter prescribe.

51. ADVICE OF CONGRESS TO FORM STATE GOVERNMENTS

Throughout the first part of 1776, events were steadily drawing the revolting colonies toward a formal declaration of their independence from the mother country. In the Second Continental Congress, one group was moving in this direction and another holding back. An important step was marked by the following resolve passed May 15, 1776.

Ford, Journals of Continental Congress, Vol. 4, pp. 341-358.

Friday, May 10, 1776

... The Congress then resumed the consideration of the report from the committee of the whole, which being read was agreed to as follows:

Resolved, That it be recommended to the respective assemblies and conventions of the United Colonies, where no government sufficient to the exigencies of their affairs have been hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.

Resolved, That a committee of three be appointed to prepare a preamble to the foregoing resolution:

The members chosen, Mr. J[ohn] Adams, Mr. [Edward] Rutledge, and Mr. R[ichard] H[enry] Lee...

Wednesday, May 15, 1776

... The Congress took into consideration the draught of the preamble brought in by the committee, which was agreed to as follows:

Whereas his Britannic Majesty, in conjunction with the lords and commons of Great Britain, has, by a late act of Parliament, excluded the inhabitants of these United Colonies from the protection of his crown; And whereas, no answer, whatever, to the humble petitions of the colonies for redress of grievances and reconciliation with Great Britain, has been or is likely to be given; but, the whole force of that kingdom, aided by foreign mercenaries, is to be exerted for the destruction of the good people of these colonies; And whereas, it appears absolutely irreconcilable to reason and good Conscience, for the people of these colonies now to take the oaths and affirmations necessary for the support of any government under the crown of Great Britain, and it is necessary that the exercise of every kind of authority under the said crown should be totally suppressed, and all the powers of government exerted, under the authority of the people of the colonies, for the preservation of internal peace, virtue, and good order, as well as for the defence of their lives, liberties, and properties, against the hostile invasions and cruel depredations of their enemies; therefore, resolved, &c.

Ordered, That the said preamble, with the resolution passed the 10th instant, be published. . .

52. VIRGINIA BILL OF RIGHTS

The American Revolution had come about in a great measure as a protest against the exercise by governments of too extensive powers. Therefore, the first formally drawn American State constitutions contained so-called bills of rights which defined the rights of the individual citizen and stressed limitations on the powers of government. One of the most famous of these bills of rights was that contained in the Virginia constitution of 1776. The bill of rights was adopted on June 12 of that year. It was the work of George Mason.

Thorpe, Federal and State Constitutions, Vol. 7, pp. 3812-3814.

A DECLARATION of rights made by the representatives of the good people of Virginia, assembled in full and free convention; which rights do pertain to them and their posterity, as the basis and foundation of government.

SECTION 1. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

SEC. 2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

SEC. 3. That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community; of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and that, when any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefeasible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

SEC. 4. That no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which, not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

SEC. 5. That the legislative and executive powers of the State should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct.

SEC. 6. That elections of members to serve as representatives of the people, in assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed or deprived of their property for public uses, without their own consent, or that of their representatives so elected, nor bound by any law to which they have not, in like manner, assembled, [assented] for the public good.

SEC. 7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 8. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of twelve men of his vicinage, without whose unanimous consent he cannot be found guilty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

SEC. 9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

SEC. 11. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

SEC. 12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

SEC. 13. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

SEC. 14. That the people have a right to uniform government; and, therefore, that no government separate from, or independent of the government of Virginia, ought to be erected or established within the limits thereof.

SEC. 15. That no free government, or the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

SEC. 16. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity towards each other.

53. THE RESOLUTION FOR INDEPENDENCE

A formal act by which the colonies declared their independence from the mother country was passed on July 2, 1776, in the following resolution.

Ford, Journals of the Continental Congress, Vol. 5, pp. 506-507.

Tuesday, July 2, 1776

... THE Congress resumed the consideration of the resolution agreed to by and reported from the committee of the whole; and the same being read, was agreed to as follows:

Resolved, That these United Colonies are, and, of right, ought to be, Free and Independent States; that they are absolved from all allegiance to the British crown, and that all political connexion between them, and the state of Great Britain, is, and ought to be, totally dissolved. . .

54. THE DECLARATION OF INDEPENDENCE

The formal Declaration of Independence drafted by a committee, headed by Thomas Jefferson, was adopted by Congress July 4, 1776. That day, therefore, has been popularly recognized as the anniversary of independence.

Ford, Journals of the Continental Congress, Vol. 5, pp. 509-515

Thursday, July 4, 1776

... AGREEABLE to the order of the day, the Congress resolved itself into a committee of the whole, to take into their farther consideration, the declaration; || and, after some time, || the president resumed the chair. Mr. [Benjamin] Harrison reported, that the committee of the whole Congress have agreed to a Declaration, which he delivered in.

The Declaration being again read, was agreed to as follows:

The unanimous Declaration of the thirteen United States of America.

WHEN, in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the Powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind

requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these, are Life, Liberty, and the pursuit of Happiness. That, to secure these rights, Governments are instituted among Men, deriving their just Powers from the consent of the governed. That, whenever any form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such Principles, and organizing its Powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same Object, evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future Security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of People, unless those People would relinquish the right of Representation in the legislature; a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole Purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the People.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavoured to prevent the Population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harrass our People, and eat out their substance.

He has kept among us, in times of Peace, Standing Armies, without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial, from Punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us, in many cases, of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring province, establishing therein an Arbitrary government, and enlarging its Boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with Power to legislate for us in all cases whatsoever.

He has abdicated Government here by declaring us out of his protection, and waging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the Lives of our People.

He is at this time transporting large Armies of foreign Mercenaries

to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens, taken Captive on the high Seas, to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions, We have Petitioned for Redress, in the most humble terms: Our repeated Petitions, have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred, to disavow these usurpations, which, would inevitably interrupt our connexions and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

WE, THEREFORE, the Representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the World for the rectitude of our intentions, DO, in the Name and by Authority of the good People of these Colonies, solemnly PUBLISH and DECLARE, That these United Colonies are, and of Right, ought to be FREE AND INDEPENDENT STATES; that they are Absolved from all Allegiance to the British Crown, and that all political connexion between them and the State of Great Britain, is and ought to be totally dissolved; and that, as FREE and INDEPENDENT STATES, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which INDEPENDENT STATES may of right do. AND for the support of this Declaration, with a firm reliance on the protection of divine Providence, we

mutually pledge to each other our Lives, our Fortunes, and our sacred Honour.

|| The foregoing declaration was, by order of Congress, engrossed, and signed by the following members: ||

JOHN HANCOCK.

[Other signatures follow.]

55. THE ARTICLES OF CONFEDERATION

The Continental Congress on June 12, 1776, appointed a committee to draw up the form of a confederation. A draft, written by John Dickinson, was reported July 12, 1776, and finally adopted with some important amendments, November 15, 1777. Because she thought the Articles too favorable to territorial claims of the larger states, Maryland refused to ratify them until March 1, 1781. On the next day the articles went into operation. They are of interest as one additional step of the evolution of a federal form of government. They should be compared with the New England Confederation, the Albany Plan of Union and the Constitution of the United States.

R. Peters, Public Statutes at Large of the United States of America, Vol. 1, pp. 4-9. Boston, 1845.

To all to whom these presents shall come,

We, the undersigned, Delegates of the States affixed to our names, send greeting:

Whereas the Delegates of the United States of America in Congress assembled, did on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the Independence of America, agree to certain Articles of Confederation and Perpetual Union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz.

Articles of Confederation and Perpetual Union,

between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

ARTICLE 1. The style of this confederacy shall be, "THE UNITED STATES OF AMERICA."

ART. 2. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this

confederation, expressly delegated to the United States, in Congress assembled.

ART. 3. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ART. 4. 1. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid by any State on the property of the United States, or either of them.

2. If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up, and removed to the State having jurisdiction of his offence.

3. Full faith and credit shall be given, in each of these States, to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

ART. 5. 1. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

2. No State shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years, in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

3. Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of these States.

4. In determining questions in the United States in Congress assembled, each State shall have one vote.

5. Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, Congress, except for treason, felony or breach of the peace.

ART. 6. No State, without the consent of the United States, in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince or State; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State; nor shall the United States, in Congress assembled, or any of them, grant any title of nobility.

2. No two or more States shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States, in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

3. No State shall lay any imposts or duties which may interfere with any stipulations in treaties, entered into by the United States, in Congress assembled, with any king, prince, or State, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

4. No vessels of war shall be kept up in time of peace, by any State, except such number only as shall be deemed necessary by the United States, in Congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up, by any State, in time of peace, except such number only as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

5. No State shall engage in any war without the consent of the United States, in Congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the United States, in Congress assembled, can be consulted; nor shall any State grant

commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States, in Congress assembled, and then only against the kingdom or State, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States, in Congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States, in Congress assembled, shall determine otherwise.

ART. 7. When land forces raised by any State, for the common defence, all officers of, or under the rank of colonel, shall be appointed by the legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made the appointment.

ART. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States, in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States, in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the United States, in Congress assembled.

ART. 9. 1. The United States, in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article, of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States, shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures; provided that no member of Congress shall be appointed a judge of any of the said courts.

2. The United States, in Congress assembled, shall also be the last resort on appeal, in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to Congress, stating the matter in question, and praying for a hearing, notice thereof shall be given, by order of Congress, to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names, as Congress shall direct, shall, in the presence of Congress, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination; and if either party shall neglect to attend at the day appointed, without showing reasons which Congress shall judge sufficient, or being present, shall refuse to strike, the Congress shall proceed to nominate three persons out of each State, and the secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress, for the security of the parties concerned; provided, that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection, or hope of reward." Provided, also, that no State shall be deprived of territory for the benefit of the United States.

3. All controversies concerning the private right of soil claimed

under different grants of two or more States, whose jurisdictions, as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

4. The United States, in Congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

5. The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated, "*A Committee of the States*," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the United States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them, in a soldier-

like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States, in Congress assembled; but if the United States, in Congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared, and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

6. The United States, in Congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in Congress assembled.

7. The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

ART. 10. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States, in Congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest

them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine States, in the Congress of the United States assembled, is requisite.

ART. 11. Canada acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

ART. 12. All bills of credit emitted, moneys borrowed, and debts contracted by or under the authority of Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. 13. Every State shall abide by the determinations of the United States, in Congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

And whereas it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union, Know ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States, in Congress assembled, on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands, in Congress.

Done at Philadelphia, in the State of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the third year of the Independence of America.

56. LORD NORTH'S PROPOSALS FOR CONCILIATION, 1778

The capture of Burgoyne's army in October of 1777 made it inevitable that Great Britain would offer her utmost concessions to draw the colonies back to their allegiance and that France would hasten negotiations for an alliance to confirm the United States in its struggle for independence. Lord North announced his intention of offering his utmost concessions December 10, 1777, but he did not introduce the bills which follow, until February 17, 1778. By that time the French alliance was an accomplished fact and America was committed to the struggle for its independence.

The acts are found in Pickering, Statutes at Large, Vol. 32, pp. 3-6. Cambridge, 1778.

CAP. XI.

.....

WHEREAS the province of the Massachusetts Bay had for many years been governed under a charter, granted by their late majesties King William and Queen Mary: and whereas an act, passed in the fourteenth year of his present Majesty's reign, intituled An act for the better regulating the government of the province of the Massachusetts Bay in New England, has been found to create great uneasiness in the minds of the inhabitants of the said province, .. be it enacted by ... this present parliament ... That, .. the said act, of the fourteenth year of the reign of his present Majesty, be, and the same is hereby repealed.

CAP. XII.

An act for removing all doubts and apprehensions concerning taxation by the parliament of Great Britain ... in North America and the West Indies; and for repealing so much of an act, .. as imposes a duty on tea imported from Great Britain into any colony ... in America...

WHEREAS taxation by the parliament of Great Britain, for the purpose of raising a revenue in his Majesty's colonies, provinces, and plantations, in North America, has been found to experience great uneasinesses and disorders among his Majesty's faithful subjects ... and ... in order ... to remove the said uneasinesses ... it is hereby declared and enacted by ... this present parliament ... That ... after the passing of this act, the King and parliament of Great Britain will not im-

pose any duty, tax, or assessment whatever . . . in *North America* or the *West Indies*; except only such duties as it may be expedient to impose for the regulation of commerce; the net produce of such duties to be . . . applied to . . . the use of the colony . . . in which the same shall be respectively levied . . . as other duties collected by the authority of the . . . assemblies, of such colonies . . . are ordinarily paid and applied.

II. And be it further enacted by the authority aforesaid, That, from and after the passing of this act, so much of an act, made in the seventh year of his present Majesty's reign . . . as imposes a duty on tea imported from *Great Britain* into any colony or plantation in *America*, or has relation to the said duty, be, and the same is hereby repealed.

CAP. XIII.

An act to enable his Majesty to appoint commissioners . . . to treat . . . upon the means of quieting the disorders now subsisting in certain of the colonies, plantations, and provinces of North America.

FOR the quieting and extinguishing of divers jealousies and apprehensions of danger to their liberties and rights, which have alarmed many of his Majesty's subjects in the colonies, provinces, and plantations of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pensylvania, the three lower counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia; and for a full manifestation of the just and gracious purposes of his Majesty, and his parliament, to maintain and secure all his subjects in the clear and perfect enjoyment of their liberties and rights; be it enacted by . . . this present parliament assembled, . . . That it shall . . . be lawful for his Majesty . . . to authorise . . . five . . . persons, or any three of them, to treat . . . with any body . . . politick . . . or with any assembly . . . or with any person . . . whatsoever . . . concerning any grievances, or complaints of grievances, existing, or supposed to exist, in the government of any of the . . . said colonies . . . or in the laws and statutes of this realm respecting the same; and . . . concerning any aid or contribution to be furnished by any of the said colonies . . . for the common defence of this realm, and the dominions thereunto belonging; and . . . concerning any other regulations, provisions, matters, and things, necessary or convenient for the honour of his Majesty, and his parliament, and for the common good of all his subjects.

II. Provided . . . That no regulation . . . so proposed . . . shall have any other force . . . than is herein-after mentioned . . . until the same shall have been confirmed by parliament.

III. Provided also... That in order to facilitate the good purposes of this act, his Majesty may lawfully enable the said commissioners... to order... a cessation of hostilities, on the part of his Majesty's forces... and such order... to revoke... in the same manner...

IV-VI. ... it shall... be lawful for his Majesty... to authorise... the said commissioners... to suspend the operation... of a certain act of parliament... for prohibiting all trade and intercourse with certain colonies... it shall... be lawful for his Majesty... to authorise... the said commissioners... to suspend... the operation and effect of any act... of parliament which have passed since the tenth day of *February*, one thousand seven hundred and sixty-three, and which relate to any of his Majesty's said colonies, provinces, or plantations in *North America*... it shall... be lawful for his Majesty... to authorise... the said commissioners... to grant a pardon or pardons to any number or description of persons within the said colonies, provinces, or plantations. . .

57. TREATY OF ALLIANCE WITH FRANCE, 1778

France had watched the revolution with a most profound interest from the beginning. Her policy hesitated between a desire to use American independence to humiliate her old rival, England, and her fear that the colonies might make up their quarrel with Great Britain, leaving France face to face with her old rival. The news of Burgoyne's defeat compelled the French to act and the Treaty of Alliance was completed February 6, 1778. It is the only political alliance in which the United States has ever been concerned.

Public Statutes at Large of the United States, Vol. 8, pp. 7-10.
Boston 1855.

TREATY OF ALLIANCE.

THE Most Christian King and the United States of North America, to wit: New-Hampshire, Massachusetts-bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, having this day concluded a treaty of Amity and Commerce, for the reciprocal advantage of their subjects and citizens, have thought it necessary to take into consideration the means of strengthening those engagements, and of rendring them useful to the safety and tranquility of the two parties; particularly in case Great Britain, in resentment of that connection and of the good correspondence which is the object of the said

treaty, should break the peace with France, either by direct hostilities, or by hindring her commerce and navigation in a manner contrary to the rights of nations, and the peace subsisting between the two crowns: And his Majesty and the said United States, having resolved in that case to join their counsels and efforts against the enterprises of their common enemy, the respective plenipotentiaries empowered to concert the clauses and conditions proper to fulfil the said intentions, have, after the most mature deliberation, concluded and determined on the following articles:

ART. I.

If war should break out between France and Great Britain during the continuance of the present war between the United States and England, his Majesty and the said United States shall make it a common cause and aid each other mutually with their good offices, their counsels and their forces, according to the exigence of conjunctures, as becomes good and faithful allies.

ART. II.

The essential and direct end of the present defensive alliance is to maintain effectually the liberty, sovereignty, and independance absolute and unlimited, of the said United States, as well in matters of gouvernement as of commerce.

.....

ART. V.

If the United States should think fit to attempt the reduction of the British power, remaining in the northern parts of America, or the islands of Bermudas, those countries or islands in case of success, shall be confederated with, or dependant upon the said United States.

ART. VI.

The Most Christian King renounces for ever the possession of the islands of Bermudas, as well as of any part of the continent of North America, which before the treaty of Paris in 1763, or in virtue of that treaty, were acknowledged to belong to the crown of Great Britain, or to the United States, heretofore called British colonies, or which are at this time, or have lately been under the power of the king and crown of Great Britain.

ART. VII.

If his Most Christian Majesty shall think proper to attack any of the islands situated in the Gulph of Mexico, or near that Gulph, which are at present under the power of Great Britain, all the said isles, in case of success, shall appertain to the crown of France.

ART. VIII.

Neither of the two parties shall conclude either truce or peace, with Great Britain, without the formal consent of the other first obtained; and they mutually engage not to lay down their arms until the independence of the United States shall have been formally or tacitly assured, by the treaty or treaties that shall terminate the war.

.....

ART. X.

The Most Christian King and the United States agree, to invite or admit other powers who may have received injuries from England, to make common cause with them, and to accede to the present alliance, under such conditions as shall be freely agreed to, and settled between all the parties.

ART. XI.

The two parties guarantee mutually from the present time, and forever against all other powers, to wit: The United States to his Most Christian Majesty, the present possessions of the crown of France in America, as well as those which it may acquire by the future treaty of peace: And his Most Christian Majesty guarantees on his part to the United States, their liberty, sovereignty and independence, absolute and unlimited, as well in matters of government as commerce, and also their possessions, and the additions or conquests, that their confederation may obtain during the war, from any of the dominions now, or heretofore possessed by Great Britain, in North America, conformable to the 5th and 6th articles above written, the whole as their possessions shall be fixed and assured to the said states, at the moment of the cessation of their present war with England.

ART. XII.

In order to fix more precisely the sense and application of the preceding article, the contracting parties declare, that in case of a rupture

between France and England, the reciprocal guarantee declared in the said article, shall have its full force and effect the moment such war shall break out; and if such rupture shall not take place, the mutual obligations of the said guarantee shall not commence until the moment of the cessation of the present war, between the United States and England, shall have ascertained their possessions.

ART. XIII.

The present treaty shall be ratified on both sides, and the ratifications shall be exchanged in the space of six months, or sooner if possible.

.....

Done at Paris, this sixth day of February, one thousand seven hundred and seventy-eight.

C. A. GERARD,	(L.S.)
B. FRANKLIN,	(L.S.)
SILAS DEANE,	(L.S.)
ARTHUR LEE,	(L.S.)

58. THE MASSACHUSETTS BILL OF RIGHTS

For the significance of bills of rights in American state constitutions, see the introduction to selection No. 52. The bill of rights attached to the Massachusetts constitution of 1780 is one only less famous than that of Virginia.

Thorpe, Federal and State Constitutions, Vol. 3, pp. 1888-1893.

THE end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquillity their natural rights, and the blessings of life: and whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity, and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people, covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpreta-

tion and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging, with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence, or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following *Declaration of Rights, and Frame of Government*, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

PART THE FIRST

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH OF MASSACHUSETTS

ARTICLE I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession of sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship. . .

IV. The people of this commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent state; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them expressly delegated to the United States of America, in Congress assembled.

V. All power residing originally in the people, and being derived from them, the several magistrates and officers of government, vested with authority, whether legislative, executive, or judicial, are their substitutes and agents, and are at all times accountable to them.

VI. No man, nor corporation, or association of men, have any other title to obtain advantages, or particular and exclusive privileges, distinct from those of the community, than what arises from the consideration of services rendered to the public; and this title being in nature neither hereditary, nor transmissible to children, or descendants, or relations by blood, the idea of a man born a magistrate, lawgiver, or judge, is absurd and unnatural.

VII. Government is instituted for the common good. . . Therefore the people alone have an incontestible unalienable, and indefeasible right to institute government; and to reform, alter, or totally change the same, when their protection, safety, prosperity, and happiness require it.

VIII. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by their frame of government, to cause their public officers to return to private life; and to fill up vacant places by certain and regular elections and appointments.

IX. All elections ought to be free; and all the inhabitants of this commonwealth, having such qualifications as they shall establish by their frame of government, have an equal right to elect officers, and to be elected, for public employments.

X. Each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property. . . And whenever the public exigencies require that the property of any individual should be appropriated to public uses, he shall receive a reasonable compensation therefor.

XI. Every subject of the commonwealth ought to find a certain remedy, by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property, or character. He ought to obtain right and justice freely, and without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

XII. No subject shall be held to answer for any crimes or offence, until the same is fully and plainly . . . described to him; or be compelled to accuse, or furnish evidence against himself. And every subject shall have a right to produce all proofs that may be favorable to him; to meet the witnesses against him face to face, and to be fully heard in his defence by himself, or his counsel, at his election. And no subject shall be arrested, . . . exiled, or deprived of his life, liberty, or estate, but by the judgment of his peers, or the law of the land.

And the legislature shall not make any law that shall subject any

person to a capital or infamous punishment, excepting for the government of the army and navy, without trial by jury.

XIII. In criminal prosecutions, the verification of facts, in the vicinity where they happen, is one of the greatest securities of the life, liberty, and property of the citizen.

XIV. Every subject has a right to be secure from all unreasonable searches, and seizures, of his person, his houses, his papers, and all his possessions. All warrants, therefore, are contrary to this right, if . . . not . . . supported by oath or affirmation, and if . . . not accompanied with a special designation of the persons or objects of search, arrest, or seizure; and no warrant ought to be issued but in cases, and with the formalities prescribed by the laws.

XV. In all controversies concerning property, and in all suits between two or more persons, . . . the parties have a right to a trial by jury; and this method of procedure shall be held sacred, unless, in causes arising on the high seas, and such as relate to mariners' wages, the legislature shall hereafter find it necessary to alter it.

XVI. The liberty of the press is essential to the security of freedom in a state it ought not, therefore, to be restricted in this commonwealth.

XVII. The people have a right to keep and to bear arms for the common defence. And as, in time of peace, armies are dangerous to liberty, they ought not to be maintained without the consent of the legislature; and the military power shall always be held in an exact subordination to the civil authority, and be governed by it.

XVIII. A frequent recurrence to the fundamental principles of the constitution, and a constant adherence to those of piety, justice, moderation, temperance, industry, and frugality, are absolutely necessary to preserve the advantages of liberty, and to maintain a free government. The people ought, consequently, to have a particular attention to all those principles, in the choice of their officers and representatives: and they have a right to require of their lawgivers and magistrates an exact and constant observance of them, in the formation and execution of the laws necessary for the good administration of the commonwealth.

XIX. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

XX. The power of suspending the laws, or the execution of the laws, ought never to be exercised but by the legislature, or by authority

derived from it, to be exercised in such particular cases only as the legislature shall expressly provide for.

XXI. The freedom of deliberation, speech, and debate, in either house of the legislature, is so essential to the rights of the people, that it cannot be the foundation of any accusation or prosecution, action or complaint, in any other court or place whatsoever.

XXII. The legislature ought frequently to assemble for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require.

XXIII. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people or their representatives in the legislature.

XXIV. Laws made to punish for actions done before the existence of such laws, and which have not been declared crimes by preceding laws, are unjust, oppressive, and inconsistent with the fundamental principles of a free government.

XXV. No subject ought, in any case, or in any time, to be declared guilty of treason or felony by the legislature.

XXVI. No magistrate or court of law shall demand excessive bail or sureties, impose excessive fines, or inflict cruel or unusual punishments.

XXVII. In time of peace, no soldier ought to be quartered in any house without the consent of the owner; and in time of war, such quarters ought not to be made but by the civil magistrate, in a manner ordained by the legislature.

XXVIII. No person can in any case be subject to law-martial, or to any penalties or pains, by virtue of that law, except those employed in the army or navy, and except the militia in actual service, but by authority of the legislature.

XXIX. It is essential to the preservation of the rights of every individual, his life, liberty, property, and character, that there be an impartial interpretation of the laws, and administration of justice. It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit. It is, therefore, not only the best policy, but for the security of the rights of the people, and of every citizen, that the judges of the supreme judicial court should hold their offices as long as they behave themselves well; and that they should have honorable salaries ascertained and established by standing laws.

XXX. In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and

judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end it may be a government of laws and not of men.

59. TREATY OF PEACE BETWEEN THE UNITED STATES
AND GREAT BRITAIN, 1783

The negotiation of the treaty began in April of 1782 and a provisional treaty was signed at Paris November 30, 1782. The definitive treaty waited the conclusion of peace between England and France and was signed September 3, 1783. The treaty was ratified by Congress, January 14, 1784.

Public Statutes at Large of the United States, Vol. 8, pp. 81-83.

ARTICLE I.

His Britannic Majesty acknowledges the said United States, viz. New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, to be free, sovereign and independent States; that he treats with them as such; and for himself, his heirs and successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof.

ARTICLE II.

And that all disputes which might arise in future, on the subject of the boundaries of the said United States, may be prevented, it is hereby agreed and declared, that the following are, and shall be their boundaries, viz. From the north-west angle of Nova-Scotia, viz. that angle which is formed by a line, drawn due north from the source of St. Croix river to the Highlands; along the said Highlands which divide those rivers, that empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river, thence down along the middle of that river, to the forty-fifth degree of north latitude; from thence, by a line due west on said latitude, until it strikes the river Iroquois or Cataraquy; thence along the middle of said river into lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and lake Erie; thence along the middle of said communication into Lake Erie, through the middle of said lake

until it arrives at the water-communication between that lake and lake Huron; thence along the middle of said water-communication into the lake Huron; thence through the middle of said lake to the water-communication between that lake and lake Superior; thence through lake Superior northward of the isles Royal and Phelipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water-communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-western point thereof, and from thence on a due west course to the river Mississippi until it shall intersect the northernmost part of the thirty-first degree of north latitude. South by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the Equator, to the middle of the river Apalachicola or Catahouche; thence along the middle thereof to its junction with the Flint river; thence strait to the head of St. Mary's river; and thence down along the middle of St. Mary's river to the Atlantic ocean. East by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands which divide the rivers that fall into the Atlantic ocean, from those which fall into the river St. Lawrence; comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova-Scotia on the one part, and East-Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic ocean; excepting such islands as now are, or heretofore have been within the limits of the said province of Nova-Scotia.

ARTICLE III.

It is agreed that the people of the United States shall continue to enjoy unmolested the right to take fish of every kind on the Grand Bank, and on all the other banks of Newfoundland; also in the gulph of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time heretofore to fish; and also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island); and also on the coasts, bays and creeks of all other of his Britannic Majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbours and creeks of Nova-Scotia, Magdalen islands, and Labrador, so long as the

same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground.

ARTICLE IV.

It is agreed that creditors on either side, shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted.

ARTICLE V.

It is agreed that the Congress shall earnestly recommend it to the legislatures of the respective states, to provide for the restitution of all estates, rights and properties, which have been confiscated, belonging to real British subjects, and also of the estates, rights and properties of persons resident in districts in the possession of his Majesty's arms, and who have not borne arms against the said United States. And that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months, unmolested in their endeavours to obtain the restitution of such of their estates, rights and properties, as may have been confiscated; and that Congress shall also earnestly recommend to the several states a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation, which on the return of the blessings of peace should universally prevail. And that Congress shall also earnestly recommend to the several states, that the estates, rights and properties of such last mentioned persons, shall be restored to them, they refunding to any persons who may be now in possession, the bona fide price (where any has been given) which such persons may have paid on purchasing any of the said lands, rights or properties, since the confiscation. And it is agreed, that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

ARTICLE VI.

That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons for, or by reason of the part which he or they may have taken in the present war; and that no

person shall, on that account, suffer any future loss or damage, either in his person, liberty or property; and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

ARTICLE VII.

There shall be a firm and perpetual peace between his Britannic Majesty and the said States, and between the subjects of the one and the citizens of the other, wherefore all hostilities, both by sea and land, shall from henceforth cease: all prisoners on both sides shall be set at liberty, and his Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons and fleets from the said United States, and from every post, place and harbour within the same; leaving in all fortifications the American artillery that may be therein; and shall also order and cause all archives, records, deeds and papers, belonging to any of the said states, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper states and persons to whom they belong.

ARTICLE VIII.

The navigation of the river Mississippi, from its source to the ocean, shall for ever remain free and open to the subjects of Great-Britain, and the citizens of the United States.

ARTICLE IX.

In case it should so happen that any place or territory belonging to Great-Britain or to the United States, should have been conquered by the arms of either from the other, before the arrival of the said provisional articles in America, it is agreed, that the same shall be restored without difficulty, and without requiring any compensation.

.....

Done at Paris, this third day of September, in the year of our Lord one thousand seven hundred and eighty-three.

D. HARTLEY,	(L.S.)
JOHN ADAMS,	(L.S.)
B. FRANKLIN,	(L.S.)
JOHN JAY,	(L.S.)

60. THE CALL OF THE PHILADELPHIA CONVENTION

The process by which the convention that framed the Constitution of the United States developed from the so-called Annapolis Convention of 1786 is illustrated in the following selection.

Jonathan Elliot, *The Debates in the Several State Conventions*, Vol. I, pp. 117-120. Philadelphia, 1866.

"To the Honorable the Legislatures of Virginia, Delaware, Pennsylvania, New Jersey, and New York, the commissioners from the said states respectively, assembled at Annapolis, humbly beg leave to report, —

"That, pursuant to their several appointments, they met at Annapolis in the state of Maryland, on the 11th day of September instant; and having proceeded to a communication of their powers, they found that the states of New York, Pennsylvania, and Virginia, had, in substance, and nearly in the same terms, authorized their respective commissioners 'to meet such commissioners as were or might be appointed by the other states in the Union, at such time and place as should be agreed upon by the said commissioners, to take into consideration the trade and commerce of the United States; to consider how far a uniform system in their commercial intercourse and regulations might be necessary to their common interest and permanent harmony; and to report to the several states such an act relative to this great object as, when unanimously ratified by them, would enable the United States in Congress assembled effectually to provide for the same.'

"That the state of Delaware had given similar powers to their commissioners, with this difference only, that the act to be framed in virtue of these powers is required to be reported 'to the United States in Congress assembled, to be agreed to by them, and confirmed by the legislatures of every state.'

"That the state of New Jersey had enlarged the object of their appointment, empowering their commissioners 'to consider how far a uniform system in their commercial regulations and *other important matters* might be necessary to the common interest and permanent harmony of the several states;' and to report such an act on the subject as, when ratified by them, 'would enable the United States in Congress assembled effectually to provide for the exigencies of the Union.'

"That appointments of commissioners have also been made by the states of New Hampshire, Massachusetts, Rhode Island, and North Carolina, none of whom, however, have attended; but that no information has been received, by your commissioners, of any appoint-

ment having been made by the states of Connecticut, Maryland, South Carolina, or Georgia.

"That the express terms of the powers to your commissioners supposing a deputation from all the states, and having for object the trade and commerce of the United States, your commissioners did not conceive it advisable to proceed on the business of their mission under the circumstance of so partial and defective a representation. . .

"That there are important defects in the system of the federal government, is acknowledged by the acts of all those states which have concurred in the present meeting; that the defects, upon a closer examination, may be found greater and more numerous than even these acts imply, is at least so far probable, from the embarrassments which characterize the present state of our national affairs, foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion, in some mode which will unite the sentiments and councils of all the states. . .

"Your commissioners decline an enumeration of those national circumstances on which their opinion respecting the propriety of a future convention, with more enlarged powers, is founded. . . They are, however, of a nature so serious, as, in the view of your commissioners, to render the situation of the United States delicate and critical, calling for an exertion of the united virtue and wisdom of all the members of the confederacy.

"Under this impression, your commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction, that it may essentially tend to advance the interests of the Union, if the states, by whom they have been respectively delegated, would themselves concur, and use their endeavors to procure the concurrence of the other states, in the appointment of commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them, and afterwards confirmed by the legislatures of every state, will effectually provide for the same.

"Though your commissioners could not with propriety address these observations and sentiments to any but the states they have the honor to represent, they have nevertheless concluded, from motives of respect, to transmit copies of this report to the United States in Congress assembled, and to the executive of the other states.

"By order of the Commissioners.

"Dated at ANNAPOLIS, September 14, 1786." . .

IN CONGRESS, WEDNESDAY, *February 21*, 1787. — The report of a grand committee . . . to whom was referred a letter of 14th September, 1786, from J. Dickinson, written at the request of commissioners . . . assembled at the city of Annapolis, together with a copy of the report of the said commissioners to the legislatures of the states by whom they were appointed, being an order of the day, was called up, and which is contained in the following resolution, viz.: —

“Congress having had under consideration the letter of John Dickinson, Esq., chairman of the commissioners who assembled at Annapolis during the last year; also the proceedings of the said commissioners; and entirely coinciding with them as to the inefficiency of the federal government, and the necessity of devising such further provisions as shall render the same adequate to the exigencies of the Union, do strongly recommend to the different legislatures to send forward delegates, to meet the proposed convention, on the second Monday in May next, at the city of Philadelphia.”

The delegates for the state of New York . . . moved to postpone the further consideration of the report in order to take up the following proposition, viz.: —

“That it be recommended to the states composing the Union, that a convention of representatives, from the said states respectively, be held at ———, on ———, for the purpose of revising the Articles of Confederation and Perpetual Union between the United States of America, and reporting to the United States in Congress assembled, and to the states respectively, such alterations and amendments of the said Articles of Confederation as the representatives met in such convention shall judge proper and necessary to render them adequate to the preservation and support of the Union.”

On the question to postpone, for the purpose above mentioned, . . the question was lost.

A motion was then made, by the delegates for Massachusetts, to postpone the further consideration of the report, in order to take into consideration a motion which they read in their place. This being agreed to, the motion of the delegates for Massachusetts was taken up, and, being amended, was agreed to, as follows: —

“Whereas there is provision, in the Articles of Confederation and Perpetual Union, for making alterations therein, by the assent of a Congress of the United States, and of the legislatures of the several states; and whereas experience hath evinced that there are defects in the present Confederation; as a mean to remedy which, several of the states, and particularly the state of New York, by express instructions to their delegates in Congress, have suggested a convention for the purpose ex-

pressed in the following resolution; and such convention appearing to be the most probable mean of establishing in these states a firm national government, —

“*Resolved*, That, in the opinion of Congress, it is expedient that, on the second Monday in May next, a convention of delegates, who shall have been appointed in the several states, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the states, render the federal Constitution adequate to the exigencies of government and the preservation of the Union.”

61. SHAY'S REBELLION

The following letter from a Virginian delegate in Congress to the Governor of Virginia December 8, 1786, is the reflection of an observer of conservative tendencies on Shay's Rebellion and its meaning. Carrington saw, although he did not sympathize with, the social and economic conditions of unrest that found expression in the uprising in Massachusetts. Notice how the occurrence impressed him with the need of a stronger Federal Government to act as a bulwark of public order. Note, also, his sense of the danger of British intrigue in the disunited confederation.

Calendar of Virginia State Papers, Vol. 4, pp. 195-199. Richmond, 1884.

ED. CARRINGTON (DELEGATE TO CONGRESS) TO
GOVERNOR EDMUND RANDOLPH

1786
December
8th
New York

D'r Sir:

... *How far the contagion of the Eastern¹ disorders will spread, it may not be proper to conjecture from the present quiet state of the other parts of the Empire, as from the experience of human nature*

¹ Shays' rebellion in Massachusetts, the troubles in Vermont, Connecticut, Rhode Island, and lately in New Hampshire, growing out of the resistance of the people to State levies to meet the payment of interest on their public debts and that of the United States. The great impoverishment of the County consequent upon the war of the revolution, — the real cause.

and the constitutions of our Governments. Man is impatient of restraint, nor will he conform to what is necessary to the good order of Society, unless he is perfect in discernment and virtue, or the Government under which he lives is efficient. The Fathers of the American Fabric seem to have supposed the first of these principles peculiarly our lot, and have chosen it for a foundation. In the progress of experiment the fallacy is discovered, and the whole pile must fall if the latter cannot be supplied.

The spirit of insurgency in Massachusetts has proceeded to a stage which renders the subversion of that Government an event too probable. The malcontents have assumed a deliberate and systematic conduct, and every day gave confidence and numbers. The inefficiency of Government has been felt by its friends as well as enemies, and many are falling in with the measures of the insurgents, who at first showed a readiness, and actually turned out to oppose them. A personal exertion of the Governor, such as was made by Sullivan in N. Hampshire, might perhaps in the infancy of the business have been equally successful in Massachusetts. There has, however, been a kind of lassitude and indecision destructive of the confidence and zeal of all the members of the State, except those of property. These will lose all in the event of a subversion of the Government, and will doubtless make an effort to preserve it.

The Legislature² have, during their late session, brought forward sundry experiments for suppressing the spirit of insurgency; Acts for bringing into operation force, for alleviating some and removing others of the grievances complained of; and under that one of indemnity, without an exception, provided advantage is taken of it by oaths of allegiance by a certain day, have passed. Amongst the first description is one for suspending the rights of the act of habeas corpus, and this seems alone to have attracted the notice of the malcontents. They have added it to their list of grievances; have proceeded to appoint military officers for a large body of men, and continue to suppress the sitting of the Courts; and these things are effected not in a tumultuous, but regular manner. Mr. Shays, their leader, orders them into motion whenever a court is about to sit, and this proves sufficient to procure an adjournment sine die. Hitherto their measures have operated only in the infected counties, but they have now set about to extend their powers into the neighborhood of Boston, where no symptoms of the malady have been discovered. Upon the approach of the session of the Court at Cambridge last Tuesday ser night, it was understood that a large body

² Legislature of Massachusetts.

of the insurgents would march there to suppress it. Government accordingly took arrangements for its protection, and troops were actually advanced to receive the *Enemy*, of whom about 180 had assembled at some miles distance from Cambridge, but conceiving their numbers not sufficient for the enterprise they retired. The last accounts are that the Court was proceeding without interruption, and that a troop of Horse had gone forwards with orders to take as many of the insurgents as they could come up with in arms. From the langour of Government upon every former occasion, there is but little reason to suppose the pursuit was pushed to any effect, and therefore it may lead to nothing of consequence, but it is thought by those best acquainted with the state of things there that not a drop of blood can be spilt, nor captive taken without the immediate consequence of civil war. Had the insurgents been in sufficient force to attempt the execution of their designs at Cambridge, Government would have had no alternative but to open the dreadful scene, or yield the compleat domination of the State to them, and a conflict terminating in their favour would probably have been attended with the same consequence.

This business began in County Conventions forming long lists of grievances, the most trifling and unmeaning that can be conceived; nor was there even an agreement in the complaints of any two counties, all, however, agreed in the remedies. These were a suppression of the Courts and an emission of paper money subject to a depreciation, and made a tender equal to gold and silver in all cases whatever. Many of the malcontents have now, however, thrown off this flimsy veil, and openly declare for an abolition of debts, public and private, and a distribution of property. In justification of the latter object, they say that in the act of opposing the british Government the whole property of the people was forfeited, and ought, in the success of the revolution, to be considered as a common acquisition.

It is said that a British influence is operating in this mischievous affair. In the progress of the thing this has happened, but it certainly originated in the genuine baseness of the people. It is an undoubted truth that communications are held by Lord Dorchester with both the Vermonters and the insurgents of Massachusetts, and that a direct offer has been made to the latter of the protection and Government of great Britain, which they at present decline to accept, but hold in Petto, as a last resort, in case future events may place them in desperate circumstances. They also declare that it is not their intention to touch the continental magazine, which is situated at Springfield, in the midst of their Country, unless driven to it to save their lives; they will, however, think the time arrived for this step upon the happening of any conflict;

nor is there a prospect of an adequate protection from any quarter. Here is felt the imbecility, the futility, the nothingness of the federal powers. The U. S. have no troops, nor dare they call into action what is called the only safeguard of a free government, the militia of the state, it being composed of the very objects of the force; neither can reliance be placed upon that of the neighboring states. N. Hampshire has already shown her kindred to the revolvers; Connecticut is not free from the infection, and the Legislative Acts of Rhode Island have discovered that an opposition to them can be expected from no order of people there.

These circumstances have alike forbid the attempt to remove the magazine at an earlier period, as they now do, that of protecting it. Any step to this purpose would have hastened the measures of the malcontents; they were compleatly the masters of the surrounding country, and that they would not permit the execution of the business was certain; the attempt, therefore, must have been followed by the double consequence of cutting off all possibility of accommodation in the State, and blending the union with her in a civil war. It was thought by Congress most politic to leave the stores to the mercy of events; to impress the insurgents with the distinction between continental and State property, and an idea that the United States had confidence in their fidelity and attachment to the Interest and government of the Union. Thus have Congress been compelled to substitute a passive policy for that exercise of power which would ensure stability and consequence to the federal as well as State governments.

Upon the meeting of the Legislature of Massachusetts a verbal application was made by her delegates in Congress for the federal aid. This being the only practicable mode. A constitutional one must have come from the Legislature and could not have been obtained with the essential forms and authorities, without becoming a subject of public knowledge, and spurring the insurgents to immediate hostilities. Congress felt their embarrassments upon the occasion. The mode of application was not a proper one. This difficulty was, however, reconciled upon the doctrine of necessity; but the inability of the federal government to do anything effectual, and upon this consideration the impolicy of provoking the hostile dispositions of the insurgents against the Union, from which the least inconvenience that could be calculated on was their resort to the British standard, necessarily came into view. Upon the whole, it was thought best to take only a preparatory step, to be in readiness for whatever prudence and necessity might require in future. The Resolves of the 20th of October were the result of this determination. The western troubles are prefixed as the cause;

nor were they entirely out of view; but those of Massachusetts immediately operated. The views of the insurgents are indeed so unworthy that the honor of the Union is interested. The virtuous part of a State ought to meet, in the federal aid — a shield against the nefarious designs of a licentious Banditti, when the evil has become too extensive for their own controul.

.....

This instance, terminate however it may, will doubtless teach the necessity of efficiency in government, and perhaps it would be best placed in the federal head. Indeed if this cannot be got in the present form, some other ought immediately to be devised. A change of choice will probably be one of wisdom. If it is left to accident we cannot account for the result.

That great Britain will be in readiness to improve any advantage which our derangements may present for regaining her lost dominions, we are not to doubt. All her appointment to her Colonies, as well as Missions into these States, are calculated to this object. Lord Dorchester is known to be penetrating and judicious, and the people are in the habit of thinking favourably of him. A Mr. Smith, formerly of this city, is sent with his Lordship in the character of Cheif Justice. He is a man of talents, well acquainted with our natural tempers and dispositions, and quitted the country in the firm persuasion that events like these which now prevail would lead to a reunion of us with G. B. ———. Mr. Temple has been here for sometime in the appointment of Consul General. A Mr. Bond, formerly of Phil'a, has lately arrived as Consul for the Middle States, and it is said others are to be sent for the Eastern and Southern, and thus the scheme of communication will be compleat. . .

. . . There has not yet been a sufficiency of States to form a Congress, nor do I see a prospect that there will shortly be one.

I have the Honor to be,

With the highest respect,

Your Excellencie's most Ob't Serv't, &c., &c.

62. THE ORDINANCE OF 1787

Passed July 13, 1787, it represented the fruit of three years' deliberation in evolving a form of territorial government. Under its general principles, the greater part of the Continental United States has been prepared for statehood in the Union.

T. C. Pease, *Laws of the Northwest Territory, 1788-1800*, pp. 123-130. Springfield 1925.

AN ORDINANCE FOR THE GOVERNMENT OF THE
TERRITORY OF THE UNITED STATES, NORTH-WEST
OF THE RIVER OHIO.

BE IT ORDAINED by the United States in Congress assembled, that the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

.....

Be it ordained by the authority aforesaid that there shall be appointed from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked, he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behaviour.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress, from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace

and good order in the same: after the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof — and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: provided that for every five hundred free male inhabitants there shall be one representative, and so on progressively with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty five, after which the number and proportion of representatives shall be regulated by the legislature; *Provided* that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years and be a resident in the district, or unless he shall have resided in the district three years, and in either case shall likewise hold in his own right, in fee simple, two hundred acres of land within the same: — *Provided also*, that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district; or the like freehold and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representative thus elected, shall serve for the term of two years, and in case of the death of a representative, or removal from office the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress, any three of whom to be a quorum,

and the members of the council, shall be nominated and appointed in the following manner, towit: as soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom Congress shall appoint and commission for the residue of the term: and every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office, the governor before the president of Congress, and all other officers before the governor, As soon as a legislature shall be formed in the district, the council and house, assembled in one room, shall have authority by joint ballot to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions and governments, which for ever hereafter shall be formed in the said territory; — to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest.

It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact between the original states and the people and states in the said territory, and for ever remain unalterable, unless by common consent, to wit:

ARTICLE I. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments in the said territory.

ART. II. The inhabitants of the said territory shall always be entitled to the benefit of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law; all persons shall be bailable unless for capital offences, where the proof shall be evident or the presumption great; all fines shall be moderate, and no cruel or unusual punishments shall be inflicted; no man shall be deprived of his liberty or property but by the judgment of his peers, or the law of the land; and should the public exigencies make it necessary for the common preservation to take any person's property, or to demand his particular services, full compensation shall be made for the same; — and in the just preservation of rights and property it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide and without fraud previously formed.

ART. III. Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall for ever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ART. IV. The said territory, and the states which may be formed therein, shall for ever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alteration therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, to be appor-

tioned on them by Congress according to the same common rule and measure by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states as in the original states, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new states, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same shall be common highways, and for ever free, as well to the inhabitants of the said Territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost or duty therefor.

ART. V. There shall be formed in the said Territory, not less than three nor more than five states; and the boundaries of the states, as soon as Virginia shall alter her act of session and consent to the same, shall become fixed and established as follows, to wit: The western state in the said Territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn, from the Wabash and Post Vincents due north to the territorial line between the United States and Canada, and by the said territorial line to the Lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincent's to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided however, and it is further understood and declared, that the boundries of these three states, shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan: and whenever any of the said states shall have sixty thousand free inhabitants therein, such state shall be admitted by its delegates into the Congress of the United States, on an equal footing with the original states in all respects whatsoever; and shall be at liberty to form a permanent constitution and state government: *provided* the constitution and government so to be formed, shall be republican, and in conformity to the principles con-

tained in these articles and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than sixty thousand.

ART. VI. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in punishment of crimes whereof the party shall have been duly convicted: *provided* always, that any person escaping into the same, from whom labour or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labour or service as aforesaid.

.....

63. DEFECTS IN THE ARTICLES OF CONFEDERATION

The two numbers of The Federalist, extracts from which are given below, are both by Alexander Hamilton, and state with ability the defects of the Articles of Confederation as an argument for the adoption of the new constitution. They first appeared in December of 1787.

In H. C. Lodge, The Works of Alexander Hamilton, Vol. 9, pp. 120-135. New York, 1886.

THE FEDERALIST. No. XXI.

THE next most palpable defect of the subsisting Confederation, is the total want of a SANCTION to its laws. The United States, as now composed, have no powers to exact obedience, or punish disobedience to their resolutions, either by pecuniary mulcts, by a suspension or divestiture of privileges, or by any other constitutional mode . . . the United States afford the extraordinary spectacle of a government destitute even of the shadow of constitutional power to enforce the execution of its own laws. It will appear, . . . that the American Confederacy, in this particular, stands discriminated from every other institution of a similar kind, and exhibits a new and unexampled phenomenon in the political world.

The want of a mutual guaranty of the State governments is another capital imperfection in the federal plan. . . The want of a guaranty, though it might in its consequences endanger the Union, does not so immediately attack its existence as the want of a constitutional sanction to its laws.

Without a guaranty the assistance to be derived from the Union

in repelling those domestic dangers which may sometimes threaten the existence of the State constitutions, must be renounced. . . The tempestuous situation from which Massachusetts has scarcely emerged, evinces that dangers of this kind are not merely speculative. . .

The principle of regulating the contributions of the States to the common treasury by QUOTAS is another fundamental error in the Confederation. Its repugnancy to an adequate supply of the national exigencies has been already pointed out, and has sufficiently appeared from the trial which has been made of it. I speak of it now solely with a view to equality among the States. . . Neither the value of lands, nor the numbers of the people, which have been successively proposed as the rule of State contributions, has any pretension to being a just representative. . .

The wealth of nations depends upon an infinite variety of causes. Situation, soil, climate, the nature of the productions, the nature of the government, the genius of the citizens, the degree of information they possess . . . these circumstances and many more . . . occasion differences hardly conceivable in the relative opulence and riches of different countries. The consequence clearly is that there can be no common measure of national wealth, and, of course, no general or stationary rule by which the ability of a state to pay taxes can be determined. The attempt, therefore, to regulate the contributions of the members of a confederacy by any such rule, cannot fail to be productive of glaring inequality and extreme oppression. . .

There is no method of steering clear of this inconvenience, but by authorizing the national government to raise its own revenues in its own way. Imposts, excises, and, in general, all duties upon articles of consumption, may be compared to a fluid, which will, in time, find its level with the means of paying them. The amount to be contributed by each citizen will in a degree be at his own option, and can be regulated by an attention to his resources. . . In the course of time and things, an equilibrium, as far as it is attainable in so complicated a subject, will be established everywhere. . .

It is a signal advantage of taxes on articles of consumption, that they contain in their own nature a security against excess. They prescribe their own limit; which cannot be exceeded without defeating the end proposed, — that is, an extension of the revenue. . . If duties are too high, they lessen the consumption; . . This forms a complete barrier against any material oppression of the citizens by taxes of this class, and is itself a natural limitation of the power of imposing them. . .

THE FEDERALIST. No. XXII.

In addition to the defects already enumerated in the existing federal systems, there are others of not less importance which concur in rendering it altogether unfit for the administration of the affairs of the Union.

The want of a power to regulate commerce is by all parties allowed to be of the number. . .

The interfering and unneighborly regulations of some States, contrary to the true spirit of the Union, have, in different instances, given just cause of umbrage and complaint to others, and it is to be feared that examples of this nature, if not restrained by a national control, would be multiplied and extended till they became not less serious sources of animosity and discord than injurious impediments to the intercourse between the different parts of the Confederacy. . .

The power of raising armies, by the most obvious construction of the articles of the Confederation, is merely a power of making requisitions upon the States for quotas of men. This practice, in the course of the late war, was found replete with obstructions to a vigorous and to an economical system of defence. . . Hence, slow and scanty levies of men, in the most critical emergencies of our affairs; short enlistments at an unparalleled expense; continual fluctuations in the troops, ruinous to their discipline and subjecting the public safety frequently to the perilous crisis of a disbanded army. . .

This method of raising troops is not more unfriendly to economy and vigor than it is to an equal distribution of the burden. The States near the seat of war, influenced by motives of self-preservation, made efforts to furnish their quotas, which even exceeded their abilities; while those at a distance from danger were, for the most part, as remiss as the others were diligent, in their exertions. . . The system of quotas and requisitions, whether it be applied to men or money, is, in every view, a system of imbecility in the Union, and of inequality and injustice among the members.

The right of equal suffrage among the States is another exceptional part of the Confederation. . . It may happen that this majority of States is a small minority of the people of America; and two thirds of the people of America could not long be persuaded . . . to submit their interests to the management and disposal of one third. The larger States would after a while revolt from the idea of receiving the law from the smaller. . .

A circumstance which crowns the defects of the Confederation re-

mains yet to be mentioned, — the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. The treaties of the United States, to have any force at all, must be considered as part of the law of the land. Their true import, as far as respects individuals, must, like all other laws, be ascertained by judicial determinations. To produce uniformity in these determinations, they ought to be submitted, in the last resort, to one SUPREME TRIBUNAL...

It has not a little contributed to the infirmities of the existing federal system, that it never had a ratification by the PEOPLE... Owing its ratification to the law of a State, it has been contended that the same authority might repeal the law by which it was ratified... The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE. The streams of national power ought to flow immediately from that pure, original fountain of all legitimate authority.

64. THE CONSTITUTION OF THE UNITED STATES

The Philadelphia Convention completed the task of framing the Constitution September 15-17, 1787. September 28, the Congress of the Confederation transmitted it to the states. July 2, 1788, the President of Congress announced ratification by the nine states necessary to put the Constitution into effect. The organization of the new government was not completed until April 30, 1789.

Printed in Max Farrand, The Records of the Federal Convention, Vol. 2, pp. 651-664. New Haven, 1911.

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE. I.

Section. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2. The House of Representatives shall be composed of

Members chosen every second Year by the People of the several States, and the Electors in each State shall have <the> Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States <is tried,> the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the

Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and Provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Time to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of Particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, or any kind whatever, from any King, Prince, or foreign State.

Section. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of <the> Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of <the> Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE. II.

Section. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation for each State having one Vote; A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—“I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States.”

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think

proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE. III.

Section. 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law

and Fact, with such exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE. IV.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property

belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the legislature cannot be convened) against domestic Violence.

ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.

ARTICLE. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth IN WITNESS whereof We have hereunto subscribed our Names,

Attest William Jackson Secretary

Go. Washington — Presidt. and
deputy from Virginia. . .

65. THE JUDICIARY ACT OF 1789

The judiciary system of the United States is only outlined in the constitution. The organization of the Supreme Court, of the subordinate federal courts, the specific definition of their duties, etc., and the creation of the office of Attorney General of the United States was accomplished by the following act. It was approved September 24, 1789.

Statutes at Large of the United States, Vol. 1, pp. 73-93.

An Act to establish the Judicial Courts of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the supreme court of the United States shall consist of a chief justice and five associate justices, any four of whom shall be a quorum, and shall hold annually at the seat of government two sessions, the one commencing the first Monday of February, and the other the first Monday of August. That the associate justices shall have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages.

SEC. 2. *And be it further enacted,* That the United States shall be, and they hereby are, divided into thirteen districts, to be limited and called as follows, to wit: . .

SEC. 3. *And be it further enacted,* That there be a court called a District Court in each of the aforementioned districts, to consist of one

judge, who shall reside in the district for which he is appointed, and shall be called a District Judge, and shall hold annually four sessions, . .

SEC. 4. *And be it further enacted*, That the beforementioned districts, except those of Maine and Kentucky, shall be divided into three circuits, and be called the eastern, the middle, and the southern circuit. That the eastern circuit shall consist of the districts of New Hampshire, Massachusetts, Connecticut, and New York; that the middle circuit shall consist of the districts of New Jersey, Pennsylvania, Delaware, Maryland, and Virginia; and that the southern circuit shall consist of the districts of South Carolina and Georgia; and that there shall be held annually in each district of said circuits two courts which shall be called Circuit Courts, and shall consist of any two justices of the Supreme Court and the district judge of such districts, any two of whom shall constitute a quorum. *Provided*, That no district judge shall give a vote in any case of appeal or error from his own decision; but may assign the reasons of such his decision.

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SEC. 9. *And be it further enacted*, That the district courts shall have, exclusively of the courts of the several States, cognizance of all crimes and offences that shall be cognizable under the authority of the United States, committed within their respective districts, or upon the high seas; where no other punishment than whipping, not exceeding thirty stripes, a fine not exceeding one hundred dollars, or a term of imprisonment not exceeding six months, is to be inflicted; and shall also have exclusive original cognizance of all civil cases of admiralty and maritime jurisdiction, including all seizures under laws of impost, navigation, or trade of the United States. . . And shall also have cognizance, concurrent with the courts of the several States, or the circuit courts, as the case may be, of all causes where an alien sues for a tort only in violation of the law of nations or a treaty of the United States. And shall also have cognizance, concurrent as last mentioned, of all suits at common law where the United States sue, and the matter in dispute amounts, exclusive of costs, to the sum or value of one hundred dollars. And shall also have jurisdiction exclusively of the courts of the several States, of all suits against consuls or vice-consuls, except for offences above the description aforesaid. And the trial of issues in fact, in the district courts, in all cases except civil causes of admiralty and maritime jurisdiction, shall be by jury.

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SEC. 11. *And be it further enacted*, That the circuit courts shall have original cognizance, concurrent with the courts of the several

States, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and the United States are plaintiffs or petitioners; or an alien is a party, or the suit is between a citizen of the State where the suit is brought and a citizen of another State. And shall have exclusive cognizance of all crimes and offences cognizable under the authority of the United States, except where this act otherwise provides, or the laws of the United States shall otherwise direct, and concurrent jurisdiction with the district courts of the crimes and offences cognizable therein. . . And the circuit courts shall also have appellate jurisdiction from the district courts under the regulations and restrictions hereinafter provided.

SEC. 12. *And be it further enacted*, That if a suit be commenced in any state court against an alien, or by a citizen of the state in which the suit is brought against a citizen of another state, and the matter in dispute exceeds the aforesaid sum or value of five hundred dollars, exclusive of costs, to be made to appear to the satisfaction of the court, and the defendant shall, at the time of entering his appearance in such state court, file a petition for the removal of the cause for trial into the next circuit court, . . it shall then be the duty of the state court to accept the surety, and proceed no further in the cause, and any bail that may have been originally taken shall be discharged, and the said copies being entered as aforesaid, in such court of the United States, the cause shall there proceed in the same manner as if it had been brought there by original process. . . And the trial of issues in fact in the circuit courts shall, in all suits, except those of equity, and of admiralty, and maritime jurisdiction, be by jury.

SEC. 13. *And be it further enacted*, That the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a state is a party, except between a state and its citizens; and except also between a state and citizens of other states, or aliens, in which latter case it shall have original but not exclusive jurisdiction. And shall have exclusively all such jurisdiction of suits or proceedings against ambassadors or other public ministers, or their domestics, or domestic servants, as a court of law can have or exercise consistently with the law of nations; and original, but not exclusive jurisdiction of all suits brought by ambassadors or other public ministers, or in which a consul or vice-consul shall be a party. And the trial of issues in fact in the Supreme Court in all actions at law against citizens of the United States shall be by jury. The Supreme Court shall also have appellate jurisdiction from the circuit courts and courts of the several states in the cases hereinafter specially provided for; and shall have power to

issue writs of prohibition to the district courts, when proceeding as courts of admiralty and maritime jurisdiction, and writs of *mandamus*, in cases warranted by the principle and usages of law, to any courts appointed, or persons holding office under the authority of the United States.

.....

SEC. 25. *And be it further enacted*, That a final judgment or decree in any suit, in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under, any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favour of such their validity, or where is drawn in question the construction of any clause of the constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision is against the title, right, privilege, or exemption, specially set up or claimed by either party, under such clause of the said Constitution, treaty, statute, or commission, may be re-examined, and reversed or affirmed in the Supreme Court of the United States upon a writ of error, the citation being signed by the chief justice, or judge or chancellor of the court rendering or passing the judgment or decree complained of, or by a justice of the Supreme Court of the United States, in the same manner and under the same regulations, and the writ shall have the same effect as if the judgment or decree complained of had been rendered or passed in a circuit court, and the proceedings upon the reversal shall also be the same, except that the Supreme Court, instead of remanding the cause for a final decision as before provided, may, at their discretion, if the cause shall have been once remanded before, proceed to a final decision of the same, and award execution. But no other error shall be assigned or regarded as a ground of reversal in any such case as aforesaid, than such as appears on the face of the record, and immediately respects the before-mentioned questions of validity or construction of the said constitution, treaties, statutes, commissions, or authorities in dispute.

.....

SEC. 35. *And be it further enacted*, .. And there shall be appointed in each district a meet person learned in the law to act as attorney for the United States in such district, who shall be sworn or affirmed to the faithful execution of his office, whose duty it shall be to prosecute

in such district all delinquents for crimes and offences, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned, except before the supreme court in the district in which that court shall be holden. . . And there shall also be appointed a meet person learned in the law to act as attorney-general for the United States, who shall be sworn or affirmed to a faithful execution of his office; whose duty it shall be to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned, and to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments, and shall receive such compensation for his services as shall by law be provided.

Approved, September 24, 1789.

66. THE ESTABLISHMENT OF THE PUBLIC CREDIT

Alexander Hamilton, Secretary of the Treasury of the United States in the following report, dated January 9, 1790, outlined a financial system for re-establishing the credit of the United States and for funding the Federal and State debts incurred in the cause of the Revolution. The belief that Hamilton's policy had favored too much the monied classes was one of the main reasons for the formation by Thomas Jefferson and his associates of the Republican party, in opposition to Hamilton's financial measures.

In H. C. Lodge, The Works of Alexander Hamilton, Vol. 2, pp. 47-106.

First Report on the Public Credit.

Communicated to the House of Representatives, January 14, 1790.

Treasury Department, January 9, 1790.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the twenty-first day of September last, has . . . applied himself to the consideration of a proper plan for the support of the public credit. . .

In the discharge of this duty, he has felt . . . the anxieties which . . . flow from . . . a deep and solemn conviction of the momentous nature of the truth contained in the resolution under which his investigations have been conducted,—"That an adequate provision for the support

of the public credit is a matter of high importance to the honor and prosperity of the United States." . . .

If the maintenance of public credit, then, be truly so important, the next inquiry which suggests itself is: By what means is it to be effected? The ready answer to which question is, by good faith; by a punctual performance of contracts. . .

While the observance of that good faith, which is the basis of public credit, is recommended by the strongest inducements of political expediency, it is enforced by considerations of still greater authority. There are arguments for it which rest on the immutable principles of moral obligation. . .

This reflection derives additional strength from the nature of the debt of the United States. It was the price of liberty. The faith of America has been repeatedly pledged for it, and with solemnities that give peculiar force to the obligation . . . the last seven years have exhibited an earnest and uniform effort, on the part of the Government of the Union, to retrieve the national credit, by doing justice to the creditors of the nation; and that the embarrassments of a defective Constitution, which defeated this laudable effort, have ceased.

From this evidence of a favorable disposition given by the former Government, the institution of a new one . . . has excited correspondent expectations. A general belief accordingly prevails, that the credit of the United States will quickly be established on the firm foundation of an effectual provision for the existing debt. . .

To promote the increasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources, both to agriculture and commerce; to cement more closely the union of the States; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy; — these are the great and invaluable ends to be secured by a proper and adequate provision, at the present period, for the support of public credit. . .

It will procure, to every class of the community, some important advantages, and remove some no less important disadvantages.

The advantage to the public creditors . . . needs no explanation.

But there is a consequence of this . . . in which every other citizen is interested. It is a well-known fact, that, in countries in which the national debt is properly funded, and an object of established confidence, it answers most of the purposes of money. Transfers of stock or public debt are there equivalent to payments in specie; . . . The same thing would, in all probability, happen here under the like circumstances. . .

The effect which the funding of the public debt, on right principles, would have upon landed property, is one of the circumstances . . . which . . . deserves the most particular attention. The present depreciated state of that species of property is a serious calamity. The value of cultivated lands, in most of the states, has fallen, since the Revolution, from twenty-five to fifty per cent. In those farther south, the decrease is still more considerable. . . This decrease in the value of lands ought, in a great measure, to be attributed to the scarcity of money; consequently, whatever produces an augmentation of the moneyed capital of the country must have a proportional effect in raising that value. . .

The proprietors of lands would not only feel the benefit of this increase in the value of their property, and of a more prompt and better sale, when they had occasion to sell, but the necessity of selling would be itself greatly diminished. . .

Having now taken a concise view of the inducements to a proper provision for the public debt, the next inquiry which presents itself is: What ought to be the nature of such a provision? This requires some preliminary discussions.

It is agreed, on all hands, that that part of the debt which has been contracted abroad, and is denominated the foreign debt, ought to be provided for according to the precise terms of the contracts relating to it. The discussions which can arise, therefore, will have reference essentially to the domestic part of it, or to that which has been contracted at home. It is to be regretted that there is not the same unanimity of sentiment on this part as on the other.

The Secretary has too much deference for the opinions of every part of the community not to have observed one. . . It involves this question: Whether a discrimination ought not to be made between original holders of the public securities, and present possessors, by purchase? Those who advocate a discrimination are for making a full provision for the securities of the former at their nominal value, but contend that the latter ought to receive no more than the cost to them, and the interest. And the idea is sometimes suggested of making good the difference to the primitive possessor. . .

The Secretary . . . is induced to reject the doctrine it contains, as equally unjust and impolitic; . . as ruinous to public credit.

It is inconsistent with justice, because, in the first place, it is a breach of contract — a violation of the rights of a fair purchaser.

The nature of the contract, in its origin, is that the public will pay the sum expressed in the security, to the first holder or his assignee. The intent in making the security assignable is, that the proprietor may be able to make use of his property, by selling it. . .

Every buyer, therefore, stands exactly in the place of the seller; has the same right with him to the identical sum expressed in the security; and . . . his claim cannot be disputed without manifest injustice.

That he is to be considered as a fair purchaser, results from this: whatever necessity the seller may have been under, was occasioned by the Government, in not making a proper provision for its debts. The buyer had no agency in it, and therefore ought not to suffer. . . He, of course, gave a fair equivalent, and ought to reap the benefit of his hazard — a hazard which was far from inconsiderable, and which, perhaps, turned on little less than a revolution in government.

That the case of those who parted with their securities from necessity is a hard one, cannot be denied. But, whatever complaint of injury . . . they may have, respects the Government solely. They have . . . nothing to object to the persons who relieved their necessities, by giving them the current price of their property, . .

But, though many of the original holders sold from necessity, it does not follow that this was the case with all of them. It may well be supposed that some of them did it either through want of confidence in an eventual provision, or from the allurements of some profitable speculation. How shall these different classes be discriminated from each other? . .

. . . It is equally unnecessary to add any thing to what has been already said to demonstrate the fatal influence which the principle of discrimination would have on the public credit.

But there is still a point of view, in which it will appear perhaps even more exceptional than in either of the former. It would be repugnant to an express provision of the Constitution of the United States. This provision is that "all debts contracted and engagements entered into before the adoption of that Constitution, shall be as valid against the United States under it as under the Confederation"; which amounts to a constitutional ratification of the contracts respecting the debt in the state in which they existed under the Confederation. And, resorting to that standard, there can be no doubt that the rights of assignees and original holders must be considered as equal. . .

The Secretary, after mature reflection on this point, entertains a full conviction that an assumption of the debts of the particular States by the Union, and a like provision for them as for those of the Union, will be a measure of sound policy and substantial justice. . .

The principal question, then, must be whether such a provision cannot be more conveniently and effectually made by one general plan, issuing from one authority, than by different plans, originating in different authorities? . .

If all the public creditors receive their dues from one source, distributed with an equal hand, their interest will be the same. And, having the same interests, they will unite in the support of the fiscal arrangements of the Government—as these, too, can be made with more convenience where there is no competition. These circumstances combined will insure to the revenue laws a more ready and more satisfactory execution. . .

The general principle of it seems to be equitable: for it appears difficult to conceive a good reason why the expenses for the particular defence of a part, in a common war, should not be a common charge, as well as those incurred professedly for the general defence. The defence of each part is that of the whole; and unless all the expenditures are brought into a common mass, the tendency must be to add to the calamities suffered, by being the most exposed to the ravages of war, an increase of burthens. . .

The result of the foregoing discussion is this: That there ought to be no discrimination between the original holders of the debt, and present possessors by purchase; that it is expedient there should be an assumption of the State debts by the Union; and that the arrears of interest should be provided for on an equal footing with the principal. . .

The debt of the Union is distinguishable into foreign and domestic.

The foreign debt, as stated in Schedule B, amounts to,

principal	\$10,070,307 00
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Arrears of interest to the last of December, 1789. . . .	1,640,071 62
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Making, together. . .	\$11,710,378 62
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The domestic debt may be subdivided into liquidated and unliquidated principal and interest.

The principal of the liquidated part, as stated in

Schedule C, amounts to,	\$27,383,917 74
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The arrears of interest, as stated in the Schedule D, to

the end of 1790, amount to.	13,030,168 20
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Making, together. . .	\$40,414,085 94
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This includes all that has been paid in indents (except what has come into the treasury of the United States), which, in the opinion of the Secretary, can be considered in no other light than as interest due.

The unliquidated part of the domestic debt, which consists chiefly

of the continental bills of credit, is not ascertained, but may be estimated at 2,000,000 dollars.

These several sums constitute the whole of the debt of the United States, amounting together to \$54,124,464 56. That of the individual States is not equally well ascertained... The Secretary, however, presumes that the total amount may be safely stated at twenty-five millions of dollars, principal and interest... the annual amount of the interest, which, at the existing rates, would be payable on the entire mass of the public debt, would be:

On the foreign debt, computing the interest on the principal, as it stands, and allowing four per cent.	
on the arrears of interest	\$542,599 66
On the domestic debt, including that of States.....	4,044,845 15
Making, together..	\$4,587,444 81

... Is it in the power of the United States... to make a provision equal to... funding the whole debt, at the rates of interest which it now bears, in addition to the sum... necessary for the current service of the Government? .. such a provision... would require the extension of taxation to a degree and to objects which the true interest of the public creditors forbids. It is, therefore, to be hoped... that they will cheerfully concur in such modifications of their claims, .. as will facilitate to the Government an arrangement substantial, durable, and satisfactory to the community...

It has been remarked that the capital of the debt of the Union is to be viewed in the light of an annuity, at the rate of six per cent. per annum, redeemable at the pleasure of the Government by payment of the principal...

This view of the subject admits that the United States would have it in their power to avail themselves of any fall in the market rate of interest for reducing that of the debt... there is good reason to believe... that the Government rate of interest in the United States will, in a very short time, fall at least as low as five per cent.; and that, in a period not exceeding twenty years, it will sink still lower, probably to four...

From three to four per cent. is deemed good interest in several parts of Europe... no country will be able to borrow of foreigners upon better terms than the United States, because none can, perhaps, afford so good security... Hence, as large a proportion of the cash of Europe as may be wanted will be... in our market, for the use of Govern-

200 *Hamilton's Report on a National Bank* [December 13

ment. And this will naturally have the effect of a reduction of the rate of interest. . .

Premising these things, the Secretary submits to the House the expediency of proposing a loan, to the full amount of the debt, as well of the particular States as of the Union. . .

The Secretary thinks it advisable to hold out various propositions, all of them compatible with the public interest, because it is, in his opinion, of the greatest consequence that the debt should, with the consent of the creditors, be remoulded into such a shape as will bring the expenditure of the nation to a level with its income. Till this shall be accomplished the finances of the United States will never wear a proper countenance. . .

The Secretary confides, for the success of the propositions to be made, on the goodness of the reasons upon which they rest; on the fairness of the equivalent to be offered in each case; on the discernment of the creditors of their true interest, and on their disposition to facilitate the arrangements of the Government, and to render them satisfactory to the community.

.....

All of which is humbly submitted.

ALEXANDER HAMILTON,
Secretary of the Treasury.

67. HAMILTON'S REPORT ON A NATIONAL BANK

The following report by Alexander Hamilton resulted in the establishment of a bank of the United States on the lines suggested in the report, to serve as a fiscal agent for the federal government. Like Hamilton's other financial measures, this encountered the hostility of the Republicans who refused to re-charter the bank in 1811, on the expiration of its charter.

In H. C. Lodge, The Works of Alexander Hamilton, Vol. 3, pp. 125-178.

Communicated to the House of Representatives, December 14, 1790.

TREASURY DEPARTMENT, December 13, 1790.

... the ... Secretary ... respectfully reports:

That, from a conviction ... that a national bank is an institution of primary importance to the prosperous administration of the finances, and would be of the greatest utility in the operations connected with

the support of the public credit, his attention has been drawn to devising the plan of such an institution, upon a scale which will entitle it to the confidence, and be likely to render it equal to the exigencies, of the public. . .

The following are among the principal advantages of a bank:

First. — The augmentation of the active or productive capital of a country. Gold and silver, . . when deposited in banks, to become the basis of a paper circulation, . . then acquire life, or, in other words, an active and productive quality. . . It is a well-established fact, that banks in good credit can circulate a far greater sum than the actual quantum of their capital in gold and silver. The extent of the possible excess seems indeterminate; though it has been conjecturally stated at the proportions of two and three to one. . . And thus, by contributing to enlarge the mass of industrious and commercial enterprise, banks become nurseries of national wealth. . .

Secondly. — Greater facility as to the government in obtaining pecuniary aids, especially in sudden emergencies. This is another and an undisputed advantage of public banks — one which, as already remarked, has been realized in signal instances among ourselves. . .

Thirdly. — The facilitating of the payment of taxes. This advantage is produced in two ways. Those who are in a situation to have access to the bank, can have the assistance of loans, to answer, with punctuality, the public calls upon them. . . The other way in which the effect here contemplated is produced, and in which the benefit is general, is the increasing of the quantity of circulating medium, and the quickening of circulation. . .

It would be to intrude too much on the patience of the House, to prolong the details of the advantages of banks; especially as all those which might still be particularized are readily to be inferred as consequences from those which have been enumerated. . .

The establishment of banks in this country seems to be recommended by reasons of a peculiar nature. Previously to the Revolution, circulation was in a great measure carried on by paper emitted by the several local governments. . . This auxiliary may be said to be now at an end. And it is generally supposed that there has been, for some time past, a deficiency of circulating medium. . .

If the supposition of such a deficiency be in any degree well founded, and some aid to circulation be desirable, it remains to inquire what ought to be the nature of that aid.

The emitting of paper money by the authority of the government is wisely prohibited to the individual States by the National Constitution; and the spirit of the prohibition ought not to be disregarded by

the Government of the United States... In times of tranquillity it might have no ill consequence, .. but in great and trying emergencies there is almost a moral certainty of its becoming mischievous. The stamping of paper is ... so much easier than the laying of taxes, that a government ... would rarely fail, in any such emergency, to indulge itself too far ... to avoid, as much as possible, one less auspicious to present popularity. . .

The payment of the interest of the public debt at thirteen different places is a weighty reason, peculiar to our immediate situation, for desiring a bank circulation. . .

Assuming it, then, as a consequence, from what has been said, that a national bank is a desirable institution, .. what are the principles upon which one ought to be established? . .

The situation of the United States naturally inspires a wish that the form of the institution could admit of a plurality of branches. But various considerations discourage from pursuing this idea. . . The most that would seem advisable, on this point, is to insert a provision which may lead to it hereafter, if experience shall more clearly demonstrate its utility, and satisfy those who may have the direction, that it may be adopted with safety. . .

Another wish, dictated by the particular situation of the country, is, that the bank could be so constituted as to be made an immediate instrument of loans to the proprietors of land; but this wish also yields to the difficulty of accomplishing it. Land is, alone, an unfit fund for a bank circulation. . . To attach full confidence to an institution of this nature, it appears to be an essential ingredient in its structure, that it shall be under a *private* not a *public* direction — under the guidance of *individual interest*, not of *public policy*; which would be supposed to be, and, in certain emergencies, under a feeble or too sanguine administration, would really be, liable to being too much influenced by *public necessity*. . .

It will not follow, from what has been said, that the state may not be the holder of a part of the stock of a bank, and consequently a sharer in the profits of it. . .

There is one thing however, which the government owes to itself and the community — at least, to all that part of it who are not stockholders — which is, to reserve to itself a right of ascertaining, as often as may be necessary, the state of the bank; excluding, however, all pretension to control ... the following plan, for the constitution of a national bank, is respectfully submitted to the consideration of the House.

1. The capital stock of the bank shall not exceed ten millions of dollars, divided into twenty-five thousand shares, each share being four hundred dollars...

2. The amount of each share shall be payable, one-fourth in gold and silver coin, and three fourths in that part of the public debt which ... shall bear ... interest ... of six per centum per annum.

3. The respective sums subscribed shall be payable in four equal parts ... at the distance of six calendar months from each other; the first payment to be made at the time of subscription...

4. The subscribers to the bank, and their successors, shall be incorporated...

5. The capacity of the corporation to hold real and personal estate shall be limited to fifteen millions of dollars, including the amount of its capital, or original stock...

6. The totality of the debts of the company ... shall never exceed the amount of its capital stock. In case of excess, the directors, under whose administration it shall happen, shall be liable for it in their private or separate capacities...

7. The company ... shall *trade* in nothing except bills of exchange, gold and silver bullion, or in the sale of goods pledged for money lent; nor shall take more than at the rate of six per centum per annum, upon its loans or discounts.

8. No loan shall be made by the bank for the use, or on account, of the Government of the United States, or of either of them, to an amount exceeding fifty thousand dollars, or of any foreign prince or state, unless previously authorized by a law of the United States.

9. The stock of the bank shall be transferable...

10. The affairs of the bank shall be under the management of twenty-five directors, one of whom shall be the president; and there shall be, on the first Monday of January, in each year, a choice of directors, by a plurality of suffrages of the stockholders, to serve for a year. The directors, at their first meeting after each election, shall choose one of their number as president...

24. And lastly, the President of the United States shall be authorized to cause a subscription to be made to the stock of the said company, on behalf of the United States, to an amount not exceeding two millions of dollars...

All which is humbly submitted.

ALEXANDER HAMILTON,
Secretary of the Treasury.

68. THE FIRST TEN AMENDMENTS

One of the criticisms leveled at the Constitution of the United States was the lack of a bill of rights. To meet this criticism, a series of amendments was proposed at the first session of Congress, ten of which were finally adopted by the states and went into effect November 3, 1791.

Public Statutes at Large of the United States, Vol. 1, pp. 21-22.

ART. I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ART. II. A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ART. III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ART. IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ART. V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ART. VI. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour; and to have the assistance of counsel for his defence.

ART. VII. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ART. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. IX. The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ART. X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

69. PROCLAMATION OF NEUTRALITY, 1793

When news reached the United States of the outbreak of war between France and Great Britain, Washington, by advice of his cabinet, issued the following proclamation of neutrality.

American State Papers, Foreign Relations, Vol. 1, p. 140. Washington, 1833.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

WHEREAS it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, of the one part, and France on the other; and the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward the belligerent Powers:

I have therefore thought fit by these presents to declare the disposition of the United States to observe the conduct aforesaid towards those Powers respectively; and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

And I do hereby also make known, that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said Powers, or by carrying to any of them those articles which are deemed contraband by the *modern* usage of nations, will not receive the protection of the United States, against such punishment or forfeiture; and further, that I have given instructions to those officers, to whom it belongs, to cause prosecutions

to be instituted against all persons, who shall, within the cognizance of the courts of the United States, violate the law of nations, with respect to the Powers at war, or any of them.

In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my hand. Done at the city of Philadelphia, the twenty-second day of April, one thousand seven hundred and ninety-three, and of the Independence of the United States of America the seventeenth.

GEO. WASHINGTON.

By the President:

TH. JEFFERSON.

70. JAY'S TREATY, 1794

British aggressions on American commerce and the critical relations of the two powers on the northwest frontier, where Great Britain still maintained military posts within the bounds of the United States, had brought the nations to the verge of war. On April 16, 1794, the President appointed John Jay to undertake negotiations with Great Britain in settlement of all difficulties. The settlement in Jay's treaty was a most unfavorable one. All that Jay secured for his country was the evacuation of the western posts by Great Britain. The Twelfth Article by which Great Britain offered to reopen the coveted trade with her West India colonies, was accomplished with such humiliating restrictions on American commerce that the Senate refused to ratify the article which, therefore, never went into effect.

Public Statutes at Large of the United States of America, Vol. 8, pp. 117-129.

ARTICLE I.

THERE shall be a firm, inviolable and universal peace, and a true and sincere friendship between his Britannic Majesty, his heirs and successors, and the United States of America. . .

ARTICLE II.

His Majesty will withdraw all his troops and garrisons from all posts and places within the boundary lines assigned by the treaty of peace to the United States. This evacuation shall take place on or before the first day of June, one thousand seven hundred and ninety-six. . .

All settlers and traders, within the precincts or jurisdiction of the said posts, shall continue to enjoy, unmolested, all their property of every kind, and shall be protected therein . . . such of them as shall continue to reside within the said boundary lines, shall not be compelled to become citizens of the United States, or to take any oath of allegiance to the government thereof; but they shall be at full liberty so to do if they think proper, and they shall make and declare their election within one year after the evacuation aforesaid. And all persons who shall continue there after the expiration of the said year, without having declared their intention of remaining subjects of his Britannic Majesty, shall be considered as having elected to become citizens of the United States.

ARTICLE III.

It is agreed that it shall at all times be free to his Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the continent of America (the country within the limits of the Hudson's bay Company only excepted) and to navigate all the lakes rivers and waters thereof, and freely to carry on trade and commerce with each other. . . The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties; . .

ARTICLE IV.

Whereas it is uncertain whether the river Mississippi extends so far to the northward, as to be intersected by a line to be drawn due west from the Lake of the Woods . . . it is agreed, that measures shall be taken . . . for making a joint survey of the said river from one degree of latitude below the falls of St. Anthony, to the principal sources of the said river, and also of the parts adjacent thereto; and that if . . . it should appear that the said river, would not be intersected by such a line as is above mentioned, the two parties will thereupon proceed by amicable negociation, to regulate the boundary line in that quarter. . .

ARTICLE V.

Whereas doubts have arisen what river was truly intended under the name of the river St. Croix, mentioned in the said treaty of peace,

and forming a part of the boundary therein described; that question shall be referred to the final decision of commissioners to be appointed in the following manner, viz.

One commissioner shall be named by his Majesty, and one by the President of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners shall agree on the choice of a third; or if they cannot so agree, they shall each propose one person, and of the two names so proposed, one shall be drawn by lot in the presence of the two original commissioners. And the three commissioners so appointed, shall be sworn, impartially to examine and decide the said question, according to such evidence as shall respectively be laid before them on the part of the British government and of the United States. . . The said commissioners shall, by a declaration, under their hands and seals, decide what river is the river St. Croix, intended by the treaty. . . And both parties agree to consider such decision as final and conclusive, so as that the same shall never thereafter be called into question, or made the subject of dispute or difference between them.

ARTICLE VI.

Whereas it is alledged by divers British merchants . . . that debts, to a considerable amount, which were bona fide contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof have been, in several instances, impaired and lessened, so that by the ordinary course of judicial proceedings, the British creditors cannot now obtain . . . full and adequate compensation for the losses and damages which they have thereby sustained. It is agreed, that in all such cases, where full compensation for such losses and damages cannot, for whatever reason, be actually obtained, had and received by the said creditors in the ordinary course of justice, the United States will make full and complete compensation for the same to the said creditors: But it is distinctly understood, that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, . .

For the purpose of ascertaining the amount of any such losses and damages, five commissioners shall be appointed, and authorized to meet and act in manner following, viz. Two of them shall be appointed by his Majesty, two of them by the President of the United States by and with the advice and consent of the Senate thereof, and the fifth by the unanimous voice of the other four; and if they should not agree in such

choice, then the commissioners named by the two parties shall respectively propose one person, and of the two names so proposed, one shall be drawn by lot, in the presence of the four original commissioners. . .

Three of the said commissioners shall constitute a board . . . provided that one of the commissioners named on each side, and the fifth commissioner shall be present, and all decisions shall be made by the majority of the voices of the commissioners then present. . .

The award of the said commissioners, or any of three of them as aforesaid, shall in all cases be final and conclusive, both as to the justice of the claim, and to the amount of the sum to be paid to the creditor or claimant: And the United States undertake to cause the sum so awarded to be paid in specie to such creditor or claimant. . .

ARTICLE VII.

Whereas complaints have been made by divers merchants and others, citizens of the United States, that during the course of the war in which his Majesty is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, under colour of authority or commissions from his Majesty, and that from various circumstances . . . adequate compensation for the losses . . . so sustained cannot now be actually obtained . . . by the ordinary course of judicial proceedings; it is agreed, that in all such cases . . . full and complete compensation for the same will be made by the British government to the said complainants. But it is distinctly understood, that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimant.

That for the purpose of ascertaining the amount of any such losses and damages, five commissioners shall be appointed and authorized to act in London, exactly in the manner directed with respect to those mentioned in the preceding article. . . The award of the said commissioners, or any such three of them as aforesaid, shall in all cases be final and conclusive, both as to the justice of the claim, and the amount of the sum to be paid to the claimant; and his Britannic Majesty undertakes to cause the same to be paid to such claimant in specie. . .

And whereas certain merchants and others his Majesty's subjects, complain, that in the course of the war they have sustained loss and damage, by reason of the capture of their vessels and merchandize, taken within the limits and jurisdiction of the states, and brought into the ports of the same, or taken by vessels originally armed in ports of the said states.

It is agreed that in all such cases where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, Sept. 5, 1793, a copy of which is annexed to this treaty; the complaints of the parties shall be . . . referred to the commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed in like manner relative to these as to the other cases committed to them; and the United States undertake to pay to the complainants or claimants in specie, without deduction, the amount of such sums as shall be awarded to them respectively by the said commissioners. . .

ARTICLE X.

Neither the debts due from the individuals of the one nation to individuals of the other, nor shares, nor monies which they may have in the public funds, or in the public or private banks, shall ever in any event of war or national differences be sequestered or confiscated. . .

ARTICLE XI.

It is agreed between his Majesty and the United States of America, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitations and on the conditions specified in the following articles:

ARTICLE XII.

His Majesty consents that it shall and may be lawful during the time herein-after limited, for the citizens of the United States to carry to any of his Majesty's islands and ports in the West-Indies from the United States, in their own vessels, not being above the burthen of seventy tons, any goods or merchandizes, being of the growth, manufacture or produce of the said states, which it is or may be lawful to carry to the said islands or ports from the said states in British vessels; and that the said American vessels shall be subject there to no other or higher tonnage-duties or charges, than shall be payable by British vessels in the ports of the United States; and that the cargoes of the said American vessels shall be subject there to no other or higher duties or charges, than shall be payable on the like articles if imported there from the said states in British vessels.

And his Majesty also consents, that it shall be lawful for the said

American citizens to purchase, load, and carry away in their said vessels to the United States from the said islands and ports, all such articles, being of the growth, manufacture or produce of the said islands, as may now by law be carried from thence to the said states in British vessels, and subject only to the same duties and charges on exportation, to which British vessels and their cargoes are or shall be subject in similar circumstances.

Provided always, that the said American vessels do carry and land their cargoes in the United States only, it being expressly agreed and declared, that during the continuance of this article, the United States will prohibit and restrain the carrying any molasses, sugar, coffee, cocoa or cotton in American vessels, either from his Majesty's islands, or from the United States to any part of the world except the United States, reasonable sea-stores excepted. Provided also, that it shall and may be lawful, during the same period, for British vessels to import from the said islands into the United States, and to export from the United States to the said islands, all articles whatever, being of the growth, produce or manufacture of the said islands, or of the United States respectively, which now may, by the laws of the said states, be so imported and exported. And that the cargoes of the said British vessels shall be subject to no other or higher duties or charges, than shall be payable on the same articles if so imported or exported in American vessels.

It is agreed that this article and every matter and thing therein contained, shall continue to be in force during the continuance of the war in which his Majesty is now engaged; and also for two years from and after the day of the signature of the preliminary or other articles of peace, by which the same may be terminated.

.....

ARTICLE XIII.

His Majesty consents that the vessels belonging to the citizens of the United States of America, shall be admitted and hospitably received, in all the sea-ports and harbours of the British territories in the East-Indies. And that the citizens of the said United States, may freely carry on a trade between the said territories and the said United States, in all articles of which the importation or exportation respectively, to or from the said territories, shall not be entirely prohibited. Provided only, that it shall not be lawful for them in any time of war between the British government and any other power or state whatever, to export from the said territories, without the special permission of the

British government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels when admitted into the said ports no other or higher tonnage-duty than shall be payable on British vessels when admitted into the ports of the United States. And they shall pay no other or higher duties or charges . . . than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed, that the vessels of the United States shall not carry any of the articles exported by them from the said British territories, to any port or place, except to some port or place in America, where the same shall be unladen. . . It is also understood that the permission granted by this article, is not to extend to allow the vessels of the United States to carry on any part of the coasting-trade of the said British territories. . . Neither is this article to be construed to allow the citizens of the said states to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British government established there. . . And the citizens of the United States . . . in any port or harbour in the said territories . . . shall always be subject to the laws, government, and jurisdiction of what nature established in such harbour, port or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British government may from time to time establish there.

ARTICLE XIV.

There shall be between all the dominions of his Majesty in Europe and the territories of the United States, a reciprocal and perfect liberty of commerce and navigation. . .

ARTICLE XV.

It is agreed that no other or higher duties shall be paid by the ships or merchandize of the one party in the ports of the other, than such as are paid by the like vessels or merchandize of all other nations. . .

But the British government reserves to itself the right of imposing on American vessels entering into the British ports in Europe, a tonnage duty equal to that which shall be payable by British vessels in the ports of America: And also such duty as may be adequate to countervail the difference of duty now payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels. . .

ARTICLE XVII.

...in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any...contraband of war; the said vessel shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board...that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed, that all proper measures shall be taken to prevent delay...and in the payment...of any indemnification,.. agreed to be paid to the masters or owners of such ships.

ARTICLE XVIII.

[Defines contraband of war.]

...It is further agreed, that whenever any...articles...becoming contraband, according to the existing laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified; and the captors...shall pay to the masters or owners of such vessels, the full value of all such articles...

And whereas...vessels sail for a port...belonging to an enemy, without knowing that the same is...blockaded...it is agreed, that every vessel so circumstanced, may be turned away from such port...but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter; but she shall be permitted to go to any other port or place she may think proper...

ARTICLE XXIII.

The ships of war of each of the contracting parties shall, at all times, be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and government of the country... And his Majesty consents, that in case an American vessel should, by stress of weather, danger from enemies or other misfortune, be reduced to the necessity of seeking shelter in any of his Majesty's ports, into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the government of the place, be hospitably received and be permitted to refit... She shall not be allowed to break bulk or unload her cargo, unless the same

shall be bona fide necessary to her being refitted. Nor shall be permitted to sell any part of her cargo, unless so much only as may be necessary to defray her expences, and then not without the express permission of the government of the place. . .

ARTICLE XXVI.

If at any time a rupture should take place, (which God forbid) between his Majesty and the United States, the merchants and others of each of the two nations, residing in the dominions of the other, shall have the privilege of remaining and continuing their trade, so long as they behave peaceably, and commit no offence against the laws; and in case their conduct should render them suspected, and the respective governments should think proper to order them to remove, the term of twelve months from the publication of the order shall be allowed them for that purpose, to remove with their families, effects and property; but this favour shall not be extended to those who shall act contrary to the established laws. . .

ARTICLE XXVII.

It is further agreed, that his Majesty and the United States, on mutual requisitions . . . will deliver up to justice all persons, who, being charged with murder or forgery, committed within the jurisdiction of either, shall seek an asylum within any of the countries of the other, provided that this shall only be done on such evidence of criminality, as, according to the laws of the place, where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial, if the offence had there been committed. . .

Done at London, this nineteenth Day of November, one thousand seven hundred and ninety-four.

GRENVILLE, (L.S.)
JOHN JAY, (L.S.)

71. TREATY WITH SPAIN, 1795

In 1795 Thomas Pinckney concluded negotiation of a treaty with the Spanish monarchy by which the United States acquired the southern boundary which she had claimed under the Treaty of 1783, and the Spanish admission of her right to navigate the Mississippi river freely.

Public Statutes at Large of the United States of America, Vol. 8,
pp. 138-152.

TREATY OF FRIENDSHIP, LIMITS AND NAVIGATION,
Between the United States of America, and the King of Spain.

ARTICLE I.

THERE shall be a firm and inviolable peace and sincere friendship between his Catholic Majesty, his successors and subjects, and the United States, and their citizens, without exception of persons or places.

ARTICLE II.

To prevent all disputes on the subject of the boundaries which separate the territories of the two high contracting parties, it is hereby declared and agreed to as follows, to wit. The southern boundary of the United States, which divides their territory from the Spanish colonies of East and West Florida, shall be designated by a line beginning in the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the equator, which from thence shall be drawn due east to the middle of the river Apalachicola, or Catahouche, thence along the middle thereof to its junction with the Flint: thence straight to the head of St. Mary's river, and thence down the middle thereof to the Atlantic ocean. And it is agreed, that if there should be any troops, garrisons, or settlements of either party, in the territory of the other, according to the above-mentioned boundaries, they shall be withdrawn from the said territory within the term of six months after the ratification of this treaty, or sooner if it be possible; and that they shall be permitted to take with them all the goods and effects which they possess.

.....

ARTICLE IV.

It is likewise agreed that the western boundary of the United States which separates them from the Spanish colony of Louissiana, is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said states to the completion of the thirty-first degree of latitude north of the equator. And his Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth from its source to the ocean, shall be free only to his subjects and the citizens of the United States, unless he should extend this privilege to the subjects of other powers by special convention.

.....

ARTICLE XXII.

... And in consequence of the stipulations contained in the IV. article, his Catholic Majesty will permit the citizens of the United States, for the space of three years from this time, to deposit their merchandizes and effects in the port of New-Orleans, and to export them from thence without paying any other duty than a fair price for the hire of the stores, and his Majesty promises either to continue this permission, if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them, on another part of the banks of the Mississippi, an equivalent establishment.

.....

Done at San Lorenzo el Real, this seven and twenty day of October,
one thousand seven hundred and ninety-five.

THOMAS PINCKNEY, (L.S.)
EL PRINCIPE DE LA PAZ, (L.S.)

72. WASHINGTON'S FAREWELL ADDRESS

In 1796, Washington, who had resolved not to accept a third election to the presidency, published a newspaper announcement of his resolution; he added to it certain counsels for the future welfare of the nation. In the part of the Address relating to foreign affairs may be found the germ of the Monroe Doctrine.

*In The Writings of George Washington, Vol. 13, pp. 277-325.
New York, 1892.*

FRIENDS, AND FELLOW-CITIZENS,

The period for a new election of a Citizen, to administer the Executive Government of the United States, being not far distant, and the time actually arrived, when your thoughts must be employed in designating the person, who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all

the considerations appertaining to the relation, which binds a dutiful citizen to his country — and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness; but act under am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in, the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. — I constantly hoped, that it would have been much earlier in my power, consistently with motives, which I was not at liberty to disregard, to return to that retirement, from which I had been reluctantly drawn...

I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty, or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions, with which I first undertook the arduous trust, were explained on the proper occasion. — In the discharge of this trust, I will only say, that I have, with good intentions, contributed towards the organization and administration of the government, the best exertions of which a very fallible judgment was capable... every day the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. — Satisfied, that, if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe, that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it...

Here, perhaps, I ought to stop — But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger, natural to that solicitude, urge me on an occasion like the present, to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments; which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a People...

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The Unity of Government which constitutes you one people, is also now dear to you. — It is justly so; — for it is a main Pillar in the Edifice of your real independence; the support of your tranquillity at

home; your peace abroad; of your safety; of your prosperity in every shape; of that very Liberty, which you so highly prize . . . it is of infinite moment, that you should properly estimate the immense value of your national Union to your collective and individual happiness; — that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it: as of the Palladium of your political safety and prosperity; . .

For this you have every inducement of sympathy and interest. — Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of AMERICAN, which belongs to you, in your national capacity, must always exalt the just pride of Patriotism, more than any appellation derived from local discriminations. . . The Independence and Liberty you possess are the work of joint councils, and joint efforts — of common dangers, sufferings and successes. —

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those, which apply more immediately to your Interest. — Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole. . .

While then every part of our Country thus feels an immediate and peculiar interest in Union, all the parts combined in the united mass of means and efforts cannot fail to find greater strength, greater resource, proportionately greater security from external danger, a less frequent interruption of their Peace by foreign Nations; and, what is of inestimable value! they must derive from Union an exemption from those broils and wars between themselves, which so frequently afflict neighboring countries. . . Hence likewise they will avoid the necessity of those overgrown Military establishments, which under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to Republican Liberty: In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other. . .

To the efficacy and permanency of your Union, a Government for the whole is indispensable. — No alliances however strict between the parts can be an adequate substitute. . . Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of Government, better calculated than your former for an intimate Union, and for the efficacious management of your common concerns. — This government, . . has a just claim to your confidence and your support. — Respect for its authority, compliance with its

Laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true Liberty. — The basis of our political systems is the right of the people to make and to alter their Constitutions of Government. — But the Constitution which at any time exists, 'till changed by an explicit and authentic act of the whole People, is sacredly obligatory upon all. — The very idea of the power and the right of the People to establish Government, presupposes the duty of every individual to obey the established Government. . .

I have already intimated to you the danger of Parties in the State, with particular reference to the founding of them on Geographical discriminations. — Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the Spirit of Party, generally.

This Spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. — It exists under different shapes in all Governments, more or less stifled, controuled, or repressed; but, in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy. . .

It serves always to distract the Public Councils, and enfeeble the Public administration. . . It opens the doors to foreign influence and corruption, which finds a facilitated access to the Government itself through the channels of party passions. Thus the policy and the will of one country, are subjected to the policy and will of another. . .

As a very important source of strength and security, cherish public credit. — One method of preserving it is, to use it as sparingly as possible: — avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it. . .

Observe good faith and justice towards all Nations. Cultivate peace and harmony with all. — Religion and Morality enjoin this conduct; and can it be that good policy does not equally enjoin it? — It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a People always guided by an exalted justice and benevolence. . .

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded; and that in place of them just and amicable feelings towards all should be cultivated. — The Nation, which indulges towards another a habitual hatred or a habitual fondness, is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. — Antipathy in one nation against another begets

of course a similar sentiment in that other, disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable, when accidental or trifling occasions of dispute occur. — Hence frequent collisions, obstinate, envenomed and bloody contests. — The Nation prompted by ill-will and resentment sometimes impels to War the Government, contrary to the best calculations of policy. — The Government sometimes participates in the national propensity, and adopts through passion what reason would reject; — at other times, it makes the animosity of the Nation subservient to projects of hostility instigated by pride, ambition, and other sinister and pernicious motives. — The peace often, sometimes perhaps the Liberty, of Nations has been the victim. —

So likewise a passionate attachment of one Nation for another produces a variety of evils. — Sympathy for the favourite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducement or justification: It leads also to concessions to the favourite Nation of privileges denied to others, which is apt doubly to injure the Nation making the concessions; by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill-will, and a disposition to retaliate, in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favourite Nation) facility to betray, or sacrifice the interests of their own country, without odium, sometimes even with popularity: — gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption or infatuation. —

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent Patriot. — How many opportunities do they afford to tamper with domestic factions, to practise the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak, towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence, I conjure you to believe me, fellow-citizens, the jealousy of a free people ought to be *constantly* awake, since history and experience prove that foreign influence is one of the most baneful foes of republican Government. . .

The great rule of conduct for us, in regard to foreign Nations, is, in extending our commercial relations, to have with them as little *Political* connection as possible. — So far as we have already formed engagements, let them be fulfilled with perfect good faith. — Here let us stop. —

Europe has a set of primary interests, which to us have none, or a very remote relation. — Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. — Hence therefore it must be unwise in us to implicate ourselves, by artificial ties in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships, or enmities. . .

'T is our true policy to steer clear of permanent alliances, with any portion of the foreign world; — so far, I mean, as we are now at liberty to do it — for let me not be understood as capable of patronizing infidelity to existing engagements, (I hold the maxim no less applicable to public than to private affairs, that honesty is always the best policy). — I repeat it therefore let those engagements be observed in their genuine sense. — But in my opinion it is unnecessary and would be unwise to extend them. —

Taking care always to keep ourselves, by suitable establishments, on a respectably defensive posture, we may safely trust to temporary alliances for extraordinary emergencies. — . . .

Though, in reviewing the incidents of my Administration, I am unconscious of intentional error — I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. — Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. — I shall also carry with me the hope that my country will never cease to view them with indulgence; and that after forty-five years of my life dedicated to its service, with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it, which is so natural to a man, who views in it the native soil of himself and his progenitors for several generations; — I anticipate with pleasing expectation that retreat, in which I promise myself to realize, without alloy, the sweet enjoyment of partaking, in the midst of my fellow-citizens, the benign influence of good Laws under a free Government, — the ever favourite object of my heart, and the happy reward, as I trust, of our mutual cares, labours, and dangers.

United States, September 19th, 1796.

73. THE ELEVENTH AMENDMENT

The Eleventh Amendment to the Constitution was adopted to prevent the possibility of states being sued by private persons in the courts of the United States. It went into effect January 8, 1798.

Public Statutes at Large of the United States, Vol. 1, p. 22.

ART. XI. The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

74. THE ALIEN ACT

The so-called "XYZ" affair and the outbreak of hostilities between the United States and France seemed to the Federalists, who ardently desired a war with France, to be an excellent opportunity to scotch their Republican opponents. The so-called Alien Act, approved June 25, 1798, was aimed at aliens with Republican sympathies.

Public Statutes at Large of the United States, Vol. 1, pp. 570-572.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the President of the United States at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States... to depart out of the territory of the United States, within such time as shall be expressed in such order, which order shall be served on such alien... by the marshal or other person to whom the same shall be directed. And in case any alien, so ordered to depart, shall be found at large within the United States after the time limited... and not having obtained a license from the President to reside therein, . . every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States. Provided always, and be it further enacted, that if any alien so ordered to depart shall prove to the satisfaction of the President, . . that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a license to such alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate. . .*

SEC. 3. *And be it further enacted, That every master or com-*

mander of any ship or vessel which shall come into any port of the United States after the first day of July next, shall immediately on his arrival make report in writing to the collector . . . of all aliens, if any, on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation and a description of their persons, as far as he shall be informed thereof, and on failure, every such master and commander shall forfeit and pay three hundred dollars. . .

SEC. 6. *And be it further enacted*, That this act shall continue and be in force for and during the term of two years from the passing thereof.

APPROVED, June 25, 1798.

75. THE SEDITION ACT

The Sedition Act, passed July 14, 1798, represented another attempt on the part of the Federalists to silence alien criticism by Republican journalists. Prosecution of Republican editors under the Sedition Act in which the Justices of the Supreme Court displayed a decided Federalist bias, had an important part in bringing about the downfall of the Federalist party.

Public Statutes at Large of the United States, Vol. 1, pp. 596-597.

SECTION 1. *Be it enacted* . . . That if any persons shall unlawfully . . . conspire together, with intent to oppose any measure . . . of the government of the United States, . . . or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place . . . under the government of the United States, from . . . performing . . . his trust or duty; and if any person or persons, with intent as aforesaid, shall . . . advise . . . any insurrection, . . . or combination . . . he . . . shall be deemed guilty of a high misdemeanor, and on conviction, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months nor exceeding five years; and further, at the discretion of the court may be holden to find sureties for his good behaviour . . . as the said court may direct.

SEC. 2. *And be it further enacted*, That if any person shall write, print, . . . or publish, . . . any false, scandalous and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United

States, with intent to defame the said government, or either house of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States, or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States, or to resist, oppose, or defeat any such law or act, or to aid, encourage or abet any hostile designs of any foreign nation against the United States, their people or government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

.....

SEC. 4. *And be it further enacted*, That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer: *Provided*, that the expiration of the act shall not prevent or defeat a prosecution and punishment of any offence against the law, during the time it shall be in force.

APPROVED, July 14, 1798.

76. THE KENTUCKY RESOLUTIONS OF 1798

The answer of the Republicans to the Alien and Sedition Acts were resolutions expressing a Republican doctrine of the limitation of the powers of government and announcing the right of the states to check manifestly unconstitutional acts of the Federal government. This series of resolutions was later made by John C. Calhoun the basis of his doctrine of nullification which he sought to link with the names of Jefferson and Madison. The following resolutions, drafted by Jefferson, were adopted November 19, 1798.

Elliot, Debates in the Several State Conventions, Vol. 4, pp. 540-544.

1. RESOLVED, That the several states composing the United States of America are not united on the principle of unlimited submission to their general government; but that, by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving, each

state to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force; that to this compact each state acceded as a state, and is an integral party; that this government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, *each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.*

2. *Resolved*, That the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever; and . . . one of the amendments to the Constitution having also declared "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people," — therefore, also, the same act of Congress, passed on the 14th day of July, 1798, and entitled "An Act in Addition to the Act entitled 'An Act for the Punishment of certain Crimes against the United States;'" . . . are altogether void, and of no force; and that the power to create, define, and punish, such other crimes is reserved, and of right appertains, solely and exclusively, to the respective states, each within its own territory.

3. *Resolved*, That . . . special provision has been made by one of the amendments to the Constitution, which expressly declares, that "Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding, in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch that whatever violates either throws down the sanctuary which covers the others, . . . That therefore the act of the Congress of the United States, passed on the 14th of July, 1798, entitled "An Act in Addition to the Act entitled 'An Act for the Punishment of certain Crimes against the United States,'" which does abridge the freedom of the press, is not law, but is altogether void, and of no force.

4. *Resolved*, That alien friends are under the jurisdiction and protection of the laws of the state wherein they are; that no power over them has been delegated to the United States . . . the act of the Congress of the United States, passed the 22d day of June, 1798, entitled "An Act concerning Aliens," which assumes power over alien friends not

delegated by the Constitution, is not law, but is altogether void and of no force. . .

6. *Resolved*, That the imprisonment of a person under the protection of the laws of this commonwealth, on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act, entitled, "An Act concerning Aliens," is contrary to the Constitution . . . the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defence, without counsel — contrary to these provisions also of the Constitution — is therefore not law, but utterly void, and of no force. . .

8. *Resolved*, That the preceding resolutions be transmitted to the senators and representatives in Congress from this commonwealth, who are enjoined to present the same to their respective houses, and to use their best endeavors to procure, at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

9. *Resolved*, lastly, That the governor of this commonwealth be, and is, authorized and requested to communicate the preceding resolutions to the legislatures of the several states, to assure them that this commonwealth considers union for special national purposes, and particularly for those specified in their late federal compact, to be friendly to the peace, happiness, and prosperity, of all the states . . . and that, . . this commonwealth is determined, as it doubts not its co-states are, to submit to undelegated and consequently unlimited powers in no man, or body of men, on earth. . . That these and successive acts of the same character, unless arrested on the threshold, may tend to drive these states into revolution and blood . . . that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is every where the parent of despotism; free government is founded in jealousy, and not in confidence; it is jealousy, and not confidence, which prescribes limited constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which, and no farther, our confidence may go. . .

In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution. That this commonwealth does therefore call on its co-states for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorized by the federal compact. And it doubts not . . . but they will concur with this common-

wealth in considering the said acts so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the general government, but that it will proceed in the exercise over these states of all powers whatsoever . . . and that the co-states . . . will concur in declaring these void and of no force, and . . . in requesting their repeal at the next session of Congress.

77. THE VIRGINIA RESOLUTIONS OF 1798

Drafted by Madison. Passed December 21, 1798.

In Elliot, Debates in the Several State Conventions, Vol. 4, pp. 528-529.

IN THE VIRGINIA HOUSE OF DELEGATES, FRIDAY, December 21, 1798.

RESOLVED, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this state, against every aggression, either foreign or domestic; and that they will support the government of the United States in all measures warranted by the former. . .

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states, who are parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them. . .

That the General Assembly doth particularly PROTEST against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress. . .

That this state having, by its Convention, which ratified the Federal Constitution, expressly declared that, among other essential rights, "the liberty of conscience and the press cannot be cancelled, abridged, restrained, or modified, by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack

of sophistry and ambition, having, with other states, recommended an amendment for that purpose, which amendment was, in due time, annexed to the Constitution, — it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were now shown to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other. . .

That the governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other states, with a request that the same may be communicated to the legislature thereof, and that a copy be furnished to each of the senators and representatives representing this state in the Congress of the United States. . .

78. THE KENTUCKY RESOLUTIONS OF 1799

Adopted November 22, 1799.

In Elliot, Debates in the Several State Conventions, Vol. 4, pp. 544-545.

HOUSE OF REPRESENTATIVES, *Thursday, Nov. 14, 1799.*

... *Resolved*, That this commonwealth considers the federal Union, upon the terms and for the purposes specified in the late compact, conducive to the liberty and happiness of the several states: That it does now unequivocally declare its attachment to the Union, and to that compact, agreeably to its obvious and real intention, and will be among the last to seek its dissolution. . . That the principle and construction, contended for by sundry of the state legislatures, that the general government is the exclusive judge of the extent of the powers delegated to it, stop not short of *despotism* — since the discretion of those who administer the government, and not the *Constitution*, would be the measure of their powers: That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of the infraction: and, *That a nullification, by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy*: That this commonwealth does, under the most deliberate reconsideration, declare, that the said Alien and Sedition Laws are, in their opinion, palpable violations of the said Constitution; . . And finally, in order that no pretext or arguments may be drawn from a supposed acquiescence, on the part of this commonwealth, in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the federal compact, this commonwealth does now enter against them its solemn PROTEST.

79. THE LAND LAW OF 1800

This act altered the public land system a little in the direction of the wishes of the west. It cut the minimum tract sold by the government to 320 acres, and allowed a long credit to the purchaser. Passed May 10, 1800.

Public Statutes at Large of the United States, Vol. 2, pp. 73-75.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the disposal of the lands of the United States, directed to be sold by the act, intituled "An act providing for the sale of the lands of the United States, in the territory northwest of the Ohio, and above the mouth of Kentucky river," there shall be four land offices established in the said territory: one at Cincinnati... one at Chilicothe... one at Marietta... and one at Steubenville... Each of the said offices shall be under the direction of an officer, to be called "The Register of the Land Office," who shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall give bond to the United States, with approved security, in the sum of ten thousand dollars, for the faithful discharge of the duties of his office; and shall reside at the place where the land office is directed to be kept.

.....

SEC. 3. *And be it further enacted,* That the surveyor-general shall cause the townships west of the Muskingum, which by the above-mentioned act are directed to be sold in quarter townships, to be subdivided into half sections of three hundred and twenty acres each..

SEC. 4. *And be it further enacted,* That the lands thus subdivided (excluding the sections reserved by the above-mentioned act) shall be offered for sale in sections and half sections, subdivided as before directed at the following places and times, ... The sales shall remain open at each place for three weeks, and no longer. The superintendents shall observe the rules and regulations of the above-mentioned act, in classing and selling fractional with entire sections, and in keeping and transmitting accounts of the sales. All lands, remaining unsold, at the closing of either of the public sales, may be disposed of at private sale by the registers of these respective land offices, in the manner herein after prescribed; and the register of the land office at Steubenville, after the first day of July next, may proceed to sell, at private sale, the lands situate within the district assigned to his direction as herein before described, disposing of the same in sections, and classing fractional with

entire sections, according to the provisions and regulations of the above-mentioned act and of this act: And the register of the land office at Marietta, after the said first day of July next, may proceed to sell at private sale, any of the lands within the district assigned to his direction as aforesaid, which are east of the river Muskingum, excluding the townships intersected by that river, disposing of the same in sections, and classing fractional with entire sections as aforesaid.

SEC. 5. *And be it further enacted*, That no lands shall be sold by virtue of this act, at either public or private sale, for less than two dollars per acre, and payment may be made for the same by all purchasers, either in specie, or in evidences of the public debt of the United States, at the rates prescribed by the act, intituled, "An act to authorize the receipt of evidences of the public debt in payment for the lands of the United States"; and shall be made in the following manner, and under the following conditions, to wit:

1. At the time of purchase, every purchaser shall, exclusively of the fees hereafter mentioned, pay six dollars for every section, and three dollars for every half section, he may have purchased, for surveying expenses, and deposit one twentieth part of the amount of purchase money, to be forfeited, if within forty days one fourth part of the purchase money, including the said twentieth part, is not paid.

2. One fourth part of the purchase money shall be paid within forty days after the day of sale as aforesaid; another fourth part shall be paid within two years; another fourth part within three years; and another fourth part within four years after the day of sale.

3. Interest, at the rate of six per cent. a year from the day of sale shall be charged upon each of the three last payments, payable as they respectively become due.

4. A discount at the rate of eight per cent. a year, shall be allowed on any of the three last payments, which shall be paid before the same shall become due, reckoning this discount always upon the sum, which would have been demandable by the United States, on the day appointed for such payment.

5. If the first payment of one fourth part of the purchase money shall not be made within forty days after the sale, the deposit, payment and fees, paid and made by the purchaser, shall be forfeited, and the lands shall and may, from and after the day, when the payment of one fourth part of the purchase money should have been made, be disposed of at private sale, on the same terms and conditions, and in the same manner as the other lands directed by this act to be disposed of at private sale: *Provided*, that the lands which shall have been sold at public sale, and which shall, on account of such failure of payment,

revert to the United States, shall not be sold at private sale, for a price less than the price that shall have been offered for the same at public sale.

6. If any tract shall not be completely paid for within one year after the date of the last payment, the tract shall be advertised for sale by the register of the land office within whose district it may lie, in at least five of the most public places in the said district, for at least thirty days before the time of sale. And he shall sell the same at public vendue, during the sitting of the court of quarter sessions of the county in which the land office is kept, for a price not less than the whole arrears due thereon, with the expenses of sale; the surplus, if any, shall be returned to the original purchaser, or to his legal representative; but if the sum due, with interest, be not bidden and paid, then the land shall revert to the United States. All monies paid therefor shall be forfeited, and the register of the land office may proceed to dispose of the same to any purchaser, as in case of other lands at private sale.

80. JEFFERSONIAN PRINCIPLES

Both Republicans and Federalists looked on the election of Jefferson as president of the United States in 1801, as something akin to a revolution in the government of the United States. Jefferson, himself, convinced that his election marked a turning point in American history, in the following inaugural address, stated his principles and the policy of his administration with studied moderation.

J. D. Richardson, A Compilation of the Messages and Papers of the Presidents, Vol. 1, pp. 321-324. Washington, 1896.

FIRST INAUGURAL ADDRESS

Friends and Fellow-Citizens:

CALLED upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow-citizens which is here assembled to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing

rapidly to destinies beyond the reach of mortal eye — when I contemplate these transcendent objects, and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation, and humble myself before the magnitude of the undertaking. . .

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think; but this being now decided by the voice of the nation, announced according to the rules of the Constitution, all will, of course, arrange themselves under the will of the law, and unite in common efforts for the common good. All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression. . . But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government can not be strong, that this Government is not strong enough; but would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm on the theoretic and visionary fear that this Government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest Government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man can not be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question.

Let us, then, with courage and confidence pursue our own Federal and Republican principles, our attachment to union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; . . — with all these blessings, what more is neces-

sary to make us a happy and a prosperous people? Still one thing more, fellow-citizens — a wise and frugal Government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow-citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our Government, and consequently those which ought to shape its Administration. I will compress them within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against antirepublican tendencies; the preservation of the General Government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people — a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority... a well-disciplined militia, our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burthened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information and arraignment of all abuses at the bar of the public reason; freedom of religion; freedom of the press, and freedom of person under the protection of the habeas corpus, and trial by juries impartially selected. These principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and blood of our heroes have been devoted to their attainment. They should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety...

Relying, then, on the patronage of your good will, I advance with

obedience to the work, ready to retire from it whenever you become sensible how much better choice it is in your power to make. And may that Infinite Power which rules the destinies of the universe lead our councils to what is best, and give them a favourable issue for your peace and prosperity.

MARCH 4, 1801.

81. REVIVALS

The following is a description of the passing of one of those waves of religious emotion that swept America from the early eighteenth century onward. This one at the beginning of the nineteenth century had its result in helping to entrench the various Methodist, Baptist and Presbyterian denominations among the lower orders of society, busy in those years in the making of the west. The "bigotted professors" mentioned are, of course, professors of religion, — church members we would call them.

Richard M'Nemar, The Kentucky Revival, pp. 19-26. Cincinnati, 1808.

THE first extraordinary appearances of the power of God in the late revival, began about the close of the last century, in Logan and Christian counties; on the waters of Gasper and Red Rivers. And in the spring of 1801, the same extraordinary work broke out in Mason county, upper part of Kentucky;

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From small beginnings, it gradually spread. The news of these strange operations flew abroad, and attracted many to come and see; who were convinced, not only from seeing and hearing, but feeling; and carried home the testimony, that it was the living work of God. This stirred up others, and brought out still greater multitudes. And these strange exercises still encreasing, and having no respect to any stated hours of worship, it was found expedient to encamp on the ground and continue the meeting day and night. To these encampments the people flocked in hundreds and thousands, on foot, on horseback, and in waggons and other carriages.

At first appearance, those meetings exhibited nothing to the spectator, but a scene of confusion that could scarce be put into human language. They were generally opened with a sermon; near the close of which, there would be an unusual out-cry; some bursting forth into

loud ejaculations of prayer, or thanksgiving for the truth: Others breaking out in emphatical sentences of exhortation: Others flying to their careless friends, with tears of compassion, beseeching them to turn to the Lord. Some struck with terror, and hastening through the croud to make their escape, or pulling away their relations. — Others, trembling, weeping and crying out for the Lord Jesus to have mercy upon them: fainting and swooning away, till every appearance of life was gone, and the extremities of the body assumed the coldness of a dead corpse. — Others surrounding them with melodious songs, or fervent prayers for their happy resurrection in the love of Christ. — Others collecting into circles around this variegated scene, contending with arguments for and against. And under such appearances, the work would continue for several days and nights together.

I shall now mention particularly, some of the first meetings of this kind, with a few concomitant circumstances, from which the work took a general spread in the year 1801.

The first was held at Cabin-Creek. It began on the 22d of May, and continued four days and three nights. The scene was awful beyond description; the falling, crying out, praying, exhorting, singing, shouting, &c. exhibited such new and striking evidences of a supernatural power, that few, if any, could escape without being affected. Such as tried to run from it, were frequently struck on the way, or impelled by some alarming signal to return: and so powerful was the evidence on all sides, that no place was found for the obstinate sinner to shelter himself, but under the protection of prejudiced and bigotted professors. No circumstance at this meeting, appeared more striking, than the great numbers that fell on the third night: and to prevent their being trodden under foot by the multitude, they were collected together and laid out in order, on two squares of the meeting-house; which, like so many dead corpses, covered a considerable part of the floor. —

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The next general meeting was at Caneridge, Bourbon county, seven miles from Paris. It began the 6th of August, and continued day and night about a week. The number of people collected on the ground at once, was supposed to be about twenty thousand; but it was thought a much greater number were there in the course of the meeting. The encampment consisted of one hundred and thirty-five wheel-carriages and tents proportioned to the people... The various operations and exercises on that occasion, were indescribable. The falling exercises was the most noted. James Crawford, one of the oldest ministers in the state, and one of the foremost in the work, informed me that he

kept as accurate an account as he could of the number that fell on the occasion, and computed it to be about three thousand. The vast numbers who received light on this occasion, and went forth in every direction to spread it, render it impossible to pursue any further the particular track of its progress. I shall only add that it was but a few weeks after this meeting, that the same work broke out in North Carolina, by the instrumentality of some who went from Caneridge to bear the testimony.

82. MARBURY v. MADISON

February 24, 1803, John Marshall, Chief Justice of the Supreme Court of the United States, handed down the following decision, the first in which the Supreme Court of the United States had formally declared a part of an act of Congress null and void as being in contravention of the constitution. Only Marshall's reasoning in support of the power claimed by the Supreme Court is here given. The case arose by the refusal of Madison, then Secretary of State, to deliver to William Marbury a commission as justice of the peace in the District of Columbia, which had been signed and made out, but not delivered, at the end of John Adams' administration. The early part of Marshall's opinion severely rebuked Madison for his failure to deliver the commission. The latter part expounded Marshall's decision, denying Marbury the remedy he sought under the Judiciary Act of 1789, on the ground that the provision appealed to contravened the constitution.

United States Supreme Court Reports, 1 Cranch, pp. 137-180

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... ON the 24th February, the following opinion of the Court was delivered by the *Chief Justice*.

Opinion of the Court.

.....

This, then, is a plain case for a mandamus, either to deliver the commission, or a copy of it from the record; and it only remains to be inquired,

Whether it can issue from this court.

The act to establish the judicial courts of the United States authorizes the Supreme Court "to issue writs of mandamus in cases warranted by the principles and usages of law, to any courts appointed, or persons holding office, under the authority of the United States."

The Secretary of State, being a person holding an office under the

authority of the United States, is precisely within the letter of the description, and if this court is not authorized to issue a writ of mandamus to such an officer, it must be because the law is unconstitutional, and therefore absolutely incapable of conferring the authority, and assigning the duties which its words purport to confer and assign.

The constitution vests the whole judicial power of the United States in one Supreme Court, and such inferior courts as congress shall, from time to time, ordain and establish...

In the distribution of this power it is declared that "the Supreme Court shall have original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party. In all other cases, the Supreme Court shall have appellate jurisdiction."

.....

If it had been intended to leave it in the discretion of the legislature to apportion the judicial power between the supreme and inferior courts according to the will of that body, it would certainly have been useless to have proceeded further than to have defined the judicial power, and the tribunals in which it should be vested. The subsequent part of the section is mere surplusage, is entirely without meaning, if such is to be the construction. If congress remains at liberty to give this court appellate jurisdiction, where the constitution has declared their jurisdiction shall be original; and original jurisdiction where the constitution has declared it shall be appellate; the distribution of jurisdiction, made in the constitution, is form without substance.

.....

The authority, therefore, given to the Supreme Court, by the act establishing the judicial courts of the United States, to issue writs of mandamus to public officers, appears not to be warranted by the constitution; and it becomes necessary to inquire whether a jurisdiction so conferred can be exercised.

.....

... It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.

Between these alternatives there is no middle ground. The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it.

If the former part of the alternative be true, then a legislative act

contrary to the constitution is not law: if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable.

.....

So if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

If, then, the courts are to regard the constitution, and the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary acts must govern the case to which they both apply.

Those, then, who controvert the principle that the constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the constitution, and see only the law.

This doctrine would subvert the very foundation of all written constitutions. It would declare that an act which, according to the principles and theory of our government, is entirely void, is yet, in practice, completely obligatory. It would declare that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be given to the legislature a practical and real omnipotence, with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure.

That it thus reduces to nothing what we have deemed the greatest improvement on political institutions, a written constitution, would of itself be sufficient, in America, where written constitutions have been viewed with so much reverence, for rejecting the construction. But the peculiar expressions of the constitution of the United States furnish additional arguments in favour of its rejection.

The judicial power of the United States is extended to all cases arising under the constitution.

Could it be the intention of those who gave this power, to say that in using it the constitution should not be looked into? That a case arising under the constitution should be decided without examining the instrument under which it arises?

This is too extravagant to be maintained.

In some cases, then, the constitution must be looked into by the judges. And if they can open it at all, what part of it are they forbidden to read or to obey?

There are many other parts of the constitution which serve to illustrate this subject.

It is declared that "no tax or duty shall be laid on articles exported from any state." Suppose a duty on the export of cotton, of tobacco, or of flour; and a suit instituted to recover it. Ought judgment to be rendered in such a case? ought the judges to close their eyes on the constitution, and only see the law?

The constitution declares "that no bill of attainder or ex post facto law shall be passed."

If, however, such a bill should be passed, and a person should be prosecuted under it; must the court condemn to death those victims whom the constitution endeavors to preserve?

"No person," says the constitution, "shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

Here the language of the constitution is addressed especially to the courts. It prescribes, directly for them, a rule of evidence not to be departed from. If the legislature should change that rule, and declare one witness, or a confession out of court, sufficient for conviction, must the constitutional principle yield to the legislative act?

... it is apparent, that the framers of the constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature.

.....

It is also not entirely unworthy of observation, that in declaring what shall be the supreme law of the land, the constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the constitution, have that rank.

Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument.

The rule must be discharged.

83. THE LOUISIANA PURCHASE TREATY, 1803

The Louisiana Purchase Treaty was dated April 30, 1803, and ratified October 25, of the same year.

Public Statutes at Large of the United States, Vol. 8, pp. 200-208.

TREATY

Between the United States of America and the French Republic.

...ARTICLE I. Whereas, by the article the third of the treaty concluded at St. Ildelfonso, the 9th Vendémiaire, an. 9 (1st October, 1800) between the First Consul of the French Republic and his Catholic Majesty, it was agreed as follows: "His Catholic Majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to his royal highness the duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other states." *And whereas*, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontestible title to the domain and to the possession of the said territory: The First Consul of the French Republic desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever and in full sovereignty, the said territory with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above-mentioned treaty, concluded with his Catholic Majesty.

ART. II. In the cession made by the preceding article are included the adjacent islands belonging to Louisiana, all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private property. — The archives, papers, and documents, relative to the domain and sovereignty of Louisiana, and its dependences, will be left in the possession of the commissaries of the United States, and copies will be afterwards given in due form to the magistrates and municipal officers, of such of the said papers and documents as may be necessary to them.

ART. III. The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as

possible, according to the principles of the Federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess...

ART. VII. ... it has been agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce and manufactures of France or her said colonies; and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the ports of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain, or any of their colonies, without being subject to any other or greater duty on merchandize, or other or greater tonnage than that paid by the citizens of the United States.

During the space of time above mentioned, no other nation shall have a right to the same privileges in the ports of the ceded territory:..

ART. VIII. In future and forever after the expiration of the twelve years, the ships of France shall be treated upon the footing of the most favored nations in the ports above mentioned:..

Done at Paris, the tenth day of Floreal, in the eleventh year of the French Republic, and the 30th of April, 1803.

(Signed)	ROBERT R. LIVINGSTON,	(L.S.)
	JAMES MONROE,	(L.S.)
	F. BARBE MARBOIS,	(L.S.)

CONVENTION

Between the United States of America and the French Republic.

The President of the United States of America and the First Consul of the French Republic... in consequence of the treaty of cession of Louisiana, which has been signed this day ... have authorized to this effect the plenipotentiaries, .. who ... have agreed to the following articles:

ART. I. The government of the United States engages to pay to the French government, in the manner specified in the following article, the sum of sixty millions of francs, independent of the sum

which shall be fixed by another convention for the payment of the debts due by France to citizens of the United States. . .

Done at Paris, the tenth of Floreal, eleventh year of the French Republic, (30th April, 1803.)

ROBERT R. LIVINGSTON, (L.S.)

JAMES MONROE, (L.S.)

BARBÉ MARBOIS, (L.S.)

84. THE TWELFTH AMENDMENT

The Twelfth Amendment which went into effect September 25, 1804, was intended to simplify the cumbrous machinery which the constitution had originally provided for the election of the President of the United States.

Public Statutes at Large of the United States, *Vol. 1, p. 22.*

ART. XII. 1. The electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice President

shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice President: a quorum for the purpose shall consist of two thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

85. EDUCATION IN NORTH CAROLINA

In the South educational advance in the middle period centered around subsidized academies rather than public school systems. The following newspaper advertisements of schools are typical. Typical also is the set of school rules of an elementary school.

Publications of the North Carolina Commission; North Carolina Schools and Academies 1790-1840; A Documentary History, pp. 84-764, Raleigh, 1915.

THE Trustees of Franklin Academy inform the Public, that the said Academy will be opened on the first day of January next, for the Reception of Students on the following Terms, viz. That each Student shall pay to the Treasurer of the Academy, ten Dollars per Annum, for Instruction in Reading, Writing, Arithmetic, English Grammar, Geography, Belles Lettres and Rhetoric; and Sixteen Dollars for Instruction in Ethics and Metaphysics, the Latin, Greek, Hebrew, French and Italian Languages, and the higher Branches of Metaphysics and Philosophy, viz. Algebra, Geometry, Trigonometry, Conic Sections, Altimetry, Longimetry, Mensuration of Superficies and Solids, Surveying, Navigation, Natural Philosophy and Astronomy.

The Trustees having employed Mr. Matthew Dickinson, from Yale College, Newhaven, as the Principal of their Academy, flatter themselves, from the Respectability of his Character, the universal Healthiness of the County, and the low Price of Board and Tuition, that they will acquire a large Number of Students, and that the Institution will be patronized by every Friend of Virtue and Literature.

The Public may be assured that the strictest Attention will be paid to the Department and Morals of the Youth entrusted to the Care of the Principal.

By Order of the Board,
December 15.

G. HILL, Clerk.

— *Raleigh Register*, December 17, 1804.

MR. MORDECAI'S FEMALE SEMINARY WARRENTON

This is conducted by Mr. Mordecai himself with the assistance of his Son and Daughters. We believe this to be an excellent Seminary. Its conductors possess talents and a fine Literary taste. The beauties of such authors as Addison and Pope are unfolded to the Pupils in so interesting and engaging a manner that the taste is generally chastened and refined to the standard of Classick purity. The mind is elevated superior to the enjoyment of silly Novels, which but too often deprave the taste, corrupt the heart and enfeeble the understanding. Music and painting are taught by Mr. Miller. His Pupils by being taught both to read and compose Music are made to understand it. His Painters are copyists, but they copy only from the Volume of Nature.

— *Raleigh Star*, March 15, 1810.

HILLSBOROUGH FEMALE SEMINARY, 1825

THE Exercises of this Institution will commence on the first day of August, under the immediate care of Miss Lavinia Brainerd, and under the inspection and superintendence of Rev. William M. Green.

The course of instruction in this seminary will be carried on in a regular continued system of Academic studies, embracing all the scientific and ornamental branches necessary to complete the female education.

Pupils from abroad can be accommodated with board in the most respectable families of the place, at the rate of ten dollars per month. Arrangements, however, are now making, by which it is intended to instruct the more advanced pupils in house-wifery and in all the various branches of domestic economy. Whilst all due attention will be paid to the ordinary and the ornamental branches of education, the instructors will deem it their imperious duty to pay especial regard to the morals & manners of the young ladies committed to their care.

There will be a select committee of literary ladies and gentlemen to attend the semi-annual examinations, to decide on the merits and progress of the pupils, and to place them in the several classes.

Those pupils who shall have completed their course of studies with acceptance, will receive a Diploma with the signatures of their instructors and of the examining committee, and under the seal of the seminary.

The studies of the several classes will be arranged in the following order:

First Class. — Reading, Writing, Orthography, Arithmetic, English Grammar, Modern Geography, Elements of Composition.

Second Class. — Ancient, Modern & Sacred Geography, Use of the Globes, Map-Drawing, Natural History, History of the United States.

Third Class. — Algebra, Elements of Euclid, Tytler's History, Rhetoric, Elements of Criticism, Astronomy, Chronology, and Natural Philosophy.

Fourth Class. — Moral Philosophy, Evidences of Christianity, Natural Theology, Chemistry, Botany, Mineralogy and Logic.

In addition to the above, lessons will be given in Music, Drawing and Painting in all its styles, in plain and ornamental Needle-work, and in making Fruit and Flowers in Wax.

There will be two vacations in the year; one of six weeks during the winter, the other of a fortnight during the summer. The first session will end about the middle of November next; and a proportionable deduction be made in the price of tuition on account of the shortness of the session.

PRICES OF TUITION.

For First Class, per session\$10.00

For Second Class, per session 12.50

For Third and Fourth Classes, per session 15.00

All the ornamental branches taught at the usual prices.

Hillsboro', July 9.

.....

— *Raleigh Register*, July 15, 1825.

RULES OF SCHOOL

No	Lashes
1 Boys & Girls Playing Together	4
2 Quareling	4
3 Fighting	5
4 Fighting at School	5
5 Quareling at School	3
6 Gambleing or Beting at School	4
7 Playing at Cards at School	10
8 Climbing for Every foot Over three feet up a tree	1
9 Telling Lyes	7

10 Telling Tales Out of School	8
11 Nick Naming Each Other	4
12 Giving Each Other Ill Names	3
13 Fighting Each Other in time of Books	2
14 Swaring at School	8
15 Blackguarding Each Other	6
16 For Misbehaving to Girls	10
17 For Leaving School without Leave of the Teacher	4
18 Going Home with each other without Leave of the Teacher	4
19 For Drinking Spirituous Liquors at School	8
20 Making Swings & Swinging on Them	7
21 For Misbehaving when a stranger is in the House	6
22 For waring Long Finger Nails	2
23 For Not Making a bow when a Stranger Comes in or goes out	3
24 Misbehaving to Persons on the Road	4
25 For Not Making a bow when you Meet a Person	4
26 For Going to Girls Play Places	3
27 Girles Going to Boys Play Places	2
28 Coming to School with Dirty face and Hands	2
29 For Caling Each Other Liars	4
30 For Playing Bandy	10
31 For Bloting Your Copy Book	2
32 For Not making a bow when you go home or when you come	away 4
33 Wrestling at School	4
34 Scuffling at School	4
36 For Not Making a bow when going out to go home	2
37 For Weting Each other Washing at Play time	2
38 Girls Going to Boys Play Places	2
39 For Hollowing & Hooping Going Home	3
40 For Delaying Time Going home or Coming to School	4
41 For Not Mak.g a bow when you Come in or go Out	2
42 For Throwing Any Thing Harder then your trab ball	4
43 For Every word you mis In your Hart Leson without Good	Excuse 1
44 For Not Saying yes Sir & no Sir or yes marm or no marm	2
45 For Troubleing Each others Writing Affares	2
46 for Not washing at playtime when going to Books	4
46 For Going & Play.g about the Mill or Creek	6
47 For Going about the Barn or doing Any Mischief about the	place 7

November 10th, 1848.

WM. A. CHAFFIN.

86. THE BERLIN DECREE

The place at which the Berlin Decree was issued marked Napoleon's complete triumph over the Prussian army and kingdom. It was intended as a retaliation on Great Britain for what is known as Fox's Blockade—a paper blockade of the French coast from the Elbe to Brest. It was not enforced until the latter part of 1807.

Translated from the French; Correspondence de Napoléon I, Vol. 13, p. 555. Paris, 1863.

THE BERLIN DECREE

Imperial Camp at Berlin, November 21, 1806.

NAPOLÉON, Emperor of the French, King of Italy, etc., considering:

1. That England denies the international law followed universally by all civilized nations.

2. That she regards as an enemy every person belonging to an enemy nation, and in consequence makes prisoners of war not merely of the crews of armed warships but also the crews of merchantmen and even of commercial travelers and agents who travel on their business.

3. That she extends the right of conquest to ships and merchandise employed in commerce and to the property of private persons, the right which can only apply to the property of an enemy state.

4. That she extends to cities and unfortified towns, to harbors and mouths of rivers, the right of blockade which by reason and by the custom of all civilized people is applied only to strongholds;

That she declares blockaded places before which she has not a single warship although a place may not be blockaded until it is so invested that it can be approached only under imminent danger;

That she even declares places in a state of blockade which all her forces together would be unable to blockade, like sea coasts and a whole empire;

5. That this monstrous abuse of the right of blockade has no other end than hindering intercourse between nations and building up the commerce and industry of England on the ruin of the industry and commerce of the continent;

6. That such being the evident aim of England, whoever on the continent engages in commerce in English merchandise, thereby favors her designs and renders himself her accomplice;

7. That this conduct of England's, worthy of the early barbarian ages, has increased her power at the expense of that of all others;

8. That natural law sanctions opposing an enemy with the arms which he, himself, uses, and fighting him in the same way that he fights, when he disregards all ideas of justice and all the liberal sentiments that civilization produces among mankind;

We have resolved to apply to England the usages that she has adopted in her maritime legislation.

The directions of the present decree shall be always considered as a fundamental principle of the Empire until England shall have admitted that the law of war is one and the same by land and sea; that it cannot be extended to private property of any nature nor to civilians, and that the right of blockade should be restrained to strongholds really invested by sufficient forces.

We have in consequence decreed and do decree as follows:

ARTICLE 1. — The British Isles are declared in a state of blockade.

ART. 2. — All commerce and all correspondence with the British Isles are forbidden. In consequence letters or packets addressed either in England or to an Englishman or written in the English language shall be excluded from the mails and shall be seized.

ART. 3. — Every English subject of whatsoever status or position he shall be, in country occupied by our troops or by those of our allies, shall be held prisoner of war.

ART. 4. — Every warehouse, all merchandise, all property of whatsoever nature belonging to an English subject shall be declared good prize.

ART. 5. — Trade in English merchandise is forbidden and all merchandise belonging to England or coming from her factories and her colonies is declared good prize.

ART. 6. — Half the proceeds from the confiscation of merchandise and property declared good prize by the preceding articles shall be employed to indemnify merchants from the losses which they have suffered through the capture of merchantmen taken by English cruisers.

ART. 7. — No ship coming directly from England or the English colonies or having been there since the publication of the present decree shall be received in any port.

ART. 8. — Every ship which through false papers shall violate this direction shall be seized; both ship and cargo shall be confiscated as if they were English property.

ART. 9. — Our prize court at Paris is charged with the final decision of all suits which may arise in our Empire or in the country

occupied by the French army, relative to the execution of the present decree. Our prize court at Milan shall be charged with the final decision of the aforesaid suits which may arise throughout our kingdom of Italy.

ART. 10. — The present decree shall be communicated by our minister of foreign affairs to the Kings of Spain, Naples, Holland and Etruria, and to our other allies whose subjects are victims, like our own, of the injustice and barbarism of English maritime legislation.

ART. 11. — Our ministers of foreign affairs, of war, of marine, of finance, of police, and our directors general of the mails are charged, each in his place, with the execution of the present decree.

(Signed)

NAPOLEON.

Published in the *Moniteur* on December 5th, 1806.

87. THE ORDER IN COUNCIL OF JANUARY 7, 1807

The British answer to the Berlin Decree was the following Order in Council.

Annals of the Congress of the United States, 10 Congress, 2 session, 1808-1809. p. 1695. Washington, 1853.

AT a Court at the Queen's Palace, the 7th of January, 1807: Present the King's Most Excellent Majesty in Council.

Whereas the French Government has issued certain orders, which, in violation of the usages of war, purport to prohibit the commerce of all neutral nations with His Majesty's dominions, and also to prevent such nations from trading with any other country in any articles the growth, produce, or manufacture of His Majesty's dominions; and whereas the said Government has also taken upon itself to declare all His Majesty's dominions to be in a state of blockade, at the time when the fleets of France and her allies are themselves confined within their own ports by the superior valor and discipline of the British navy; .. His Majesty is thereupon pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that no vessels shall be permitted to trade from one port to another, both which ports shall belong to or be in the possession of France or her allies, or shall be so far under their control as that British vessels may not trade freely thereat; and the commanders of His Majesty's ships of war and privateers shall be, and are hereby, instructed to warn every neutral vessel coming from any such port, and destined to another such port, to discontinue her

voyage, and not to proceed to any such port; and any vessel, after being so warned, or any vessel coming from any such port, after a reasonable time shall have been afforded for receiving information of this His Majesty's order, which shall be found proceeding to another such port, shall be captured and brought in, and together with her cargo shall be condemned as lawful prize; and His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty, and the Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

88. THE ORDER IN COUNCIL OF NOVEMBER 11, 1807

Annals of the Congress of the United States, 10 Congress, 2 session, 1808-1809. pp. 1698-1702.

AT the Court at the Queen's Palace, the 11th of November, 1807:
Present, the King's Most Excellent Majesty in Council.

Whereas certain orders, establishing an unprecedented system of warfare against this Kingdom, and aimed especially at the destruction of its commerce and resources, were, sometime since, issued by the Government of France, by which "the British islands were declared to be in a state of blockade," thereby subjecting to capture and condemnation all vessels, with their cargoes, which should continue to trade with His Majesty's dominions:

And whereas, by the same order, "all trading in English merchandise is prohibited, and very article of merchandise belonging to England, or coming from her colonies, or of her manufacture, is declared lawful prize:"

And whereas the nations in alliance with France, and under her control, were required to give, and have given, and do give, effect to such orders:

And whereas His Majesty's order of the 7th of January last has not answered the desired purpose, either of compelling the enemy to recall those orders, or of inducing neutral nations to interpose, with effect, to obtain their revocation, but, on the contrary, the same have been recently enforced with increased rigor:

.....

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that all the ports and places of France and her allies, or of any other country at war with His

Majesty, and all other ports or places in Europe, from which, although not at war with His Majesty, the British flag is excluded, and all ports or places in the colonies belonging to His Majesty's enemies, shall, from henceforth, be subject to the same restrictions in point of trade and navigation, with the exceptions hereinafter mentioned, as if the same were actually blockaded by His Majesty's naval forces, in the most strict and rigorous manner: And it is hereby further ordered and declared, that all trade in articles which are of the produce or manufacture of the said countries or colonies, shall be deemed and considered to be unlawful; and that every vessel trading from or to the said countries or colonies, together with all goods and merchandise on board, and all articles of the produce or manufacture of the said countries or colonies, shall be captured and condemned as prize to the captors.

[Exception in favor of direct commerce between a neutral and enemy colonies]

.....

And the commanders of His Majesty's ships of war and privateers, and other vessels acting under His Majesty's commission, shall be, and are hereby, instructed to warn every vessel which shall have commenced her voyage prior to any notice of this order, and shall be destined to any port of France, or of her allies, or of any other country at war with His Majesty, or to any port or place from which the British flag, as aforesaid, is excluded, or to any colony belonging to His Majesty's enemies, and which shall not have cleared out as is hereinbefore allowed, to discontinue her voyage, and to proceed to some port or place in this Kingdom, or to Gibraltar or Malta; and any vessel which, after having been so warned, or after a reasonable time shall have been afforded for the arrival of information of this His Majesty's order at any port or place from which she sailed, or which, after having notice of this order, shall be found in the prosecution of any voyage contrary to the restrictions contained in this order, shall be captured, and, together with her cargo, condemned as lawful prize to the captors.

And whereas countries not engaged in the war have acquiesced in these orders of France, prohibiting all trade in any articles the produce or manufacture of His Majesty's dominions; and the merchants of those countries have given countenance and effect to those prohibitions by accepting from persons, styling themselves commercial agents of the enemy, resident at neutral ports, certain documents, termed "certificates of origin," being certificates obtained at the ports of shipment, declaring that the articles of the cargo are not of the produce or manufacture of His Majesty's dominions, or to that effect:

And whereas this expedient has been directed by France, and sub-

mitted to by such merchants, as part of the new system of warfare directed against the trade of this Kingdom, and as the most effectual instrument of accomplishing the same, and it is therefore essentially necessary to resist it:

His Majesty is therefore pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that if any vessel, after reasonable time shall have been afforded for receiving notice of this His Majesty's order, at the port or place from which such vessel shall have cleared out, shall be found carrying any such certificate or document as aforesaid, or any document referring to or authenticating the same, such vessel shall be adjudged lawful prize to the captor, together with the goods laden therein, belonging to the person or persons by whom, or on whose behalf, any such document was put on board.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judges of the High Court of Admiralty and Courts of Vice Admiralty, are to take the necessary measures herein as to them shall respectively appertain.

W. FAWKENER.

89. THE MILAN DECREE

Issued by Napoleon as a retaliation for the Order in Council of November 11.

Translated from Correspondance de Napoleon I, Vol. 16, pp. 192-193. Paris, 1864.

THE MILAN DECREE

Royal Palace of Milan, December 17, 1807.

NAPOLEON, Emperor of the French, King of Italy, Protector of the Confederation of the Rhine;

In view of the regulations established by the British government, on date of the 11th of November last, which subject the ships of neutral powers, of friends and even allies of England not only to visit by English cruisers but also to a forced stop in England, and to an arbitrary imposition of such percent of their cargo as may be established by English legislation;

Considering that by these acts the English government has denationalized the ships of all the European nations; that it is not in the power of any government to compromise on its independence and its rights, all the sovereigns of Europe being united in behalf of their sovereignty

and the freedom of their flags; that if, by an inexcusable weakness, an indelible stain in the eyes of posterity, such a tyranny were allowed to stand in principle and to be consecrated by use, the English would take advantage of it to establish in law, as they have profited by the supineness of governments to establish the infamous principle that the flag does not cover the cargo and to give to their right of blockade an arbitrary enlargement that threatens the sovereignty of all nations;

We have decreed and do decree as follows:

ARTICLE 1. — Every ship, of whatever nationality, which shall have yielded to the visit of an English ship or shall have submitted to a voyage to England, or shall have paid any impost to the English government, is, by that very act, declared to be denationalized, has lost the protection of its flag and has become English property.

ART. 2. — Whether the aforesaid ships, thus denationalized by the arbitrary measures of the English government, enter our ports or those of our allies, or whether they are taken by our warships or privateers, they are declared to be good and lawful prizes.

ART. 3. — The British Isles are declared to be in a state of blockade both by sea and by land.

Every ship, whatever its nationality, whatever its cargo, despatched from the ports of England, or of the English colonies or from territory occupied by English armies, or going to England or to English colonies or to territory occupied by English armies, is good prize, inasmuch as it violates the present decree; it shall be seized by our warships or privateers, and adjudged to its captor.

ART. 4. — These measures, which are merely a just retaliation for the barbarous system adopted by the English government, which models its legislation on that of Algiers, shall not apply to any nations which may succeed in compelling the English to respect their flags. They shall continue in force until that government returns to the principles of international law which regulate the relations of civilized states engaged in war. The dictates of this present decree shall be abrogated at the moment when the English government shall return to the principles of international law which are also those of justice and honor.

ART. 5. — All the ministers are charged with the execution of this present decree, which shall be printed in the *Bulletin of laws*.

90. THE EMBARGO ACT

British and French aggression on American trade and the delay of the British government in atoning for the Chesapeake outrage, led Jefferson, on December 18, 1807, to propose to Congress an embargo. In

four days the Embargo Act passed both houses of Congress and was approved by the President.

Public Statutes at Large of the United States, Vol. 2, pp. 451-453.

CHAP. V. — *An Act laying an Embargo on all ships and vessels in the ports and harbors of the United States.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an embargo be, and hereby is laid on all ships and vessels in the ports and places within the limits or jurisdiction of the United States, cleared or not cleared, bound to any foreign port or place; and that no clearance be furnished to any ship or vessel bound to such foreign port or place, except vessels under the immediate direction of the President of the United States; and that the President be authorized to give such instructions to the officers of the revenue, and of the navy and revenue cutters of the United States, as shall appear best adapted for carrying the same into full effect: *Provided*, that nothing herein contained shall be construed to prevent the departure of any foreign ship or vessel, either in ballast, or with the goods, wares and merchandise on board of such foreign ship or vessel, when notified of this act.

SEC. 2. *And be it further enacted,* That during the continuance of this act, no registered, or sea letter vessel, having on board goods, wares and merchandise, shall be allowed to depart from one port of the United States to any other within the same, unless the master, owner, consignee or factor of such vessel shall first give bond, with one or more sureties to the collector of the district from which she is bound to depart, in a sum of double the value of the vessel and cargo, that the said goods, wares, or merchandise shall be reloaded in some port of the United States, dangers of the seas excepted, which bond, and also a certificate from the collector where the same may be reloaded, shall by the collector respectively be transmitted to the Secretary of the Treasury. All armed vessels possessing public commissions from any foreign power, are not to be considered as liable to the embargo laid by this act.

APPROVED, December 22, 1807.

91. ACT PROHIBITING THE AFRICAN SLAVE TRADE

The Constitution of the United States, Article 1, Section 9, forbade the prohibition of the African slave trade before 1808. The following act took advantage of the first opportunity to declare the slave trade

unlawful. Down to the Civil War, the difficulties in the way of its enforcement were very great.

Public Statutes at Large of the United States, Vol. 2, pp. 426-427.

CHAP. XXII. — *An Act to prohibit the importation of Slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, one thousand eight hundred and eight, it shall not be lawful to import or bring into the United States or the territories thereof from any foreign kingdom, place, or country, any negro, mulatto, or person of colour, with intent to hold, sell, or dispose of such negro, mulatto, or person of colour, as a slave, or to be held to service or labour.

SEC. 2. *And be it further enacted,* That no citizen . . . of the United States, or any other person, shall . . . after the first day of January, in the year of our Lord one thousand eight hundred and eight, . . . equip . . . any ship or vessel, in any . . . place within the jurisdiction of the United States . . . for the purpose of procuring any negro . . . from any . . . country, to be transported . . . within the jurisdiction of the United States, to be held . . . as slaves. . .

SEC. 3. *And be it further enacted,* That . . . every person so . . . equipping . . . any ship or vessel, knowing or intending that the same shall be employed in such trade or business . . . contrary to the true intent and meaning of this act . . . shall . . . pay twenty thousand dollars, one moiety thereof to the use of the United States, and the other moiety to the use of any person or persons who shall sue for and prosecute the same to effect.

SEC. 4. *And be it further enacted,* If any citizen . . . of the United States, or any person resident within the jurisdiction of the same, shall, from and after the first day of January, one thousand eight hundred and eight . . . transport from any of the coasts or kingdoms of Africa, or from any other foreign . . . country, any negro . . . for the purpose of selling them . . . within the jurisdiction of the United States as slaves . . . such citizen . . . shall . . . forfeit . . . five thousand dollars, one moiety thereof to the use of any person or persons who shall sue for and prosecute the same to effect; and every such ship or vessel in which such negro . . . shall have been . . . transported as aforesaid . . . shall be forfeited to the United States. . . And neither the importer, nor any person or persons claiming from or under him, shall hold any right

or title whatsoever to any negro . . . who may be imported . . . within the United States . . . in violation of this law, but the same shall remain subject to any regulations not contravening the provisions of this act, which the legislatures of the several states or territories at any time hereafter may make, for disposing of any such negro, mulatto, or person of colour.

SEC. 5. *And be it further enacted*, That if any citizen . . . of the United States, or any other person resident within the jurisdiction of the same, shall . . . contrary to the true intent and meaning of this act, take on board any ship . . . from any of the coasts or kingdoms of Africa, or from any other foreign . . . country, any negro . . . with intent to sell him . . . for a slave . . . and shall transport the same . . . within the jurisdiction of the United States, and there sell such negro . . . for a slave . . . every such offender shall be deemed guilty of a high misdemeanor, and being thereof convicted before any court having competent jurisdiction, shall suffer imprisonment for not more than ten years nor less than five years, and be fined not exceeding ten thousand dollars, nor less than one thousand dollars. . .

92. THE NON-INTERCOURSE ACT

The Non-Intercourse Act passed March 1, 1809, replaced the embargo.

Public Statutes at Large of the United States, Vol. 2, pp. 528-533.

CHAP. XXIV. — *An Act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies; and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, the entrance of the harbors and waters of the United States and of the territories thereof, be, and the same is hereby interdicted to all public ships and vessels belonging to Great Britain or France, excepting vessels only which may be forced in by distress, or which are charged with despatches or business from the government to which they belong, and also packets having no cargo or merchandise on board. And if any public ship or vessel as aforesaid, not being included in the exception above mentioned, shall enter any harbor or waters within the jurisdiction of the United States, or of the territories thereof, it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land and naval forces, or of the militia of the

United States, or the territories thereof, as he shall deem necessary, to compel such ship or vessel to depart.

.....

SEC. 3. *And be it further enacted*, That from and after the twentieth day of May next, the entrance of the harbors and waters of the United States and the territories thereof be, and the same is hereby interdicted to all ships or vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either; vessels hired, chartered or employed by the government of either country, for the sole purpose of carrying letters or despatches, and also vessels forced in by distress or by the dangers of the sea, only excepted. And if any ship or vessel sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either, and not excepted as aforesaid, shall after the said twentieth day of May next, arrive either with or without a cargo, within the limits of the United States or of the territories thereof, such ship or vessel, together with the cargo, if any, which may be found on board, shall be forfeited...

SEC. 4. *And be it further enacted*, That from and after the twentieth day of May next, it shall not be lawful to import into the United States or the territories thereof, any goods, wares or merchandise whatever, from any port or place situated in Great Britain or Ireland, or in any of the colonies or dependencies of Great Britain, nor from any port or place situated in France, or in any of her colonies or dependencies, nor from any port or place in the actual possession of either Great Britain or France. Nor shall it be lawful to import into the United States, or the territories thereof, from any foreign port or place whatever, any goods, wares or merchandise whatever, being of the growth, produce or manufacture of France, or of any of her colonies or dependencies, or being of the growth, produce or manufacture of Great Britain or Ireland, or of any of the colonies or dependencies of Great Britain, or being of the growth, produce or manufacture of any place or country in the actual possession of either France or Great Britain...

SEC. 11. *And be it further enacted*, That the President of the United States be, and he hereby is authorized, in case either France or Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, to declare the same by proclamation; after which the trade of the United States, suspended by this act, and by the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the

several acts supplementary thereto, may be renewed with the nation so doing...

SEC. 12. *And be it further enacted*, That so much of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and of the several acts supplementary thereto, as forbids the departure of vessels owned by citizens of the United States, and the exportation of domestic and foreign merchandise to any foreign port or place, be, and the same is hereby repealed, after the fifteenth day of March, one thousand eight hundred and nine, except so far as they relate to Great Britain or France, or their colonies or dependencies, or places in the actual possession of either:..

SEC. 19. *And be it further enacted*, That this act shall continue and be in force until the end of the next session of Congress, and no longer; and that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be, and the same are hereby repealed from and after the end of the next session of Congress.

APPROVED, March 1, 1809.

93. THE COPPERMINE PRISON

A description of a Connecticut prison typical of conditions prison reformers in the nineteenth century sought to ameliorate.

E. A. Kendall, Travels through the Northern Parts of the United States, Vol. 1, pp. 206-213. New York, 1809.

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THE state-prison, my design of visiting which has been mentioned, is situate on West Mountain. It is in the town of Granby, but its own name is Newgate. Granby adjoins Windsor on the west, and was once a part of Simsbury.

.....

Ascending, by a rocky road, the western side of the mountain, I discovered at length the walls of the prison, rising gray upon the brow. On the east, the road was skirted, at a small distance, by lofty and precipitous craggs, and on the west lay extensive valleys, with mountains in the distance.

.....

The prisoners in the gaol are kept to hard labour at smiths' work, within the walls; and their task, which ends at four o'clock in the afternoon, commences at four o'clock in the morning...

It is the plan of this establishment to make it an object of terror. Several of the higher crimes are punished by confinement in this place for life; while, for lesser, the duration is limited to certain terms of years. While confined, however, every prisoner partakes of the common fate.

On being admitted into the gaol-yard, I found a sentry under arms within the gate, and eight soldiers drawn up in a line, in front of the gaoler's house. A bell, summoning the prisoners to work, had already rung; and in a few moments they began to make their appearance.

... whenever one or more were about to cross the yard to the smithy, the soldiers were ordered to present, in readiness to fire. The prisoners were heavily ironed, and secured both by hand-cuffs and fetters; and, being therefore unable to walk, could only make their way by a sort of jump or a hop. On entering the smithy, some went to the sides of the forges, where collars, dependent by iron chains from the roof, were fastened round their necks, and others were chained in pairs to wheelbarrows... and when they were all disposed of, in the manner described, sentries were placed within the building which contained them...

.....

... the place chosen for the prison is no other than the mouth of a forsaken copper-mine, of which the excavations are employed for cells. They are descended by a shaft, which is secured by a trap-door, within the prison-house, or gaoler's house, which stands upon the mine.

The trap-door being lifted up, I went down an iron ladder, perpendicularly fixed, to the depth of about fifty feet. From the foot of the ladder, a rough, narrow and low passage descends still deeper, till it terminates at a well of clear water, over which is an air-shaft, seventy feet in height, and guarded at its mouth, which is within the gaol-yard, by a hatch of iron. The cells are near the well, but at different depths, beneath the surface, none perhaps exceeding sixty feet. They are small, rugged, and accommodated only with wooden births, and some straw.

The straw was wet, and there was much humidity in every part of this obscure region; but I was assured I ought to attribute this only to the remarkable wetness of the season; that the cells were in general dry, and that they were not found unfavourable to the health of the prisoners.

Into these cells the prisoners are dismissed at four o'clock in the afternoon, every day without exception, and at all seasons of the year. They descend in their fetters and hand-cuffs; and at four o'clock in

the morning they ascend the iron ladder, climbing it as well they can, by the aid of their fettered limbs. It is to be observed that no women are confined here; ..

Going again into the workshop or smithy, I found the attendants of the prison delivering pickled pork for the dinner of the prisoners. Pieces were given separately to the parties at each forge. They were thrown upon the floor, and left to be washed and boiled in the water used for cooling the iron wrought at the forges. Meat had been distributed in like manner for breakfast. The food of the prison is regulated for each day in the week; and consists in an alternation of pork, beef, and peas, with which last no flesh meat is allowed.

Besides the caverns or excavations below, and the gaoler's house above, there are other apartments prepared for the prisoners, and particularly a hospital, of which the neatness and airiness afford a strong contrast to the other parts of the prison. It was also satisfactory to find that in this hospital there were no sick.

Such is the seat and the scene of punishment, provided by Connecticut, for criminals, not guilty of murder, treason, or either of a few other capital offences. . .

94. THE RAMBOUILLET DECREE, MARCH 23, 1810

Napoleon's retaliation to the Non-Intercourse Act, which he held to be especially aimed at France.

Annals of the Congress of the United States, 11 Congress, 3 session, 1810-1811, p. 1230. Washington, 1853.

[Translation of a decree issued by the Emperor of the French, at Rambouillet, March 23, 1810.]

NAPOLEON, &c.

Considering that the Government of the United States, by an act dated 1st March, 1809, which forbids the entrance of the ports, harbors, and rivers of the said States to all French vessels, orders, 1st. That after the 20th of May following, vessels under the French flag, which shall arrive in the United States, shall be seized and confiscated, as well as their cargoes; 2d. That after the same epoch, no merchandise or produce, the growth or manufacture of France or her colonies, can be imported into the said United States from any port or place whatsoever, under the penalty of seizure, confiscation, and a fine of three times the value of the merchandise; 3d. That American vessels cannot go to any port of France, of her colonies, or dependencies: We have decreed, and do decree, what follows:

ART. 1st. All vessels navigating under the flag of the United States, or possessed in whole or in part, by any citizen or subject of that Power, which, counting from the 20th of May, 1809, have entered or shall enter into the ports of our Empire, of our colonies, or of the countries occupied by our arms, shall be seized, and the product of the sales shall be deposited in the surplus fund (*caisse d'amortissement*.)

There shall be excepted from this regulation the vessels which shall be charged with despatches, or with commissions of the Government of the said States, and who shall not have either cargoes or merchandise on board.

Our Grand Judge, Minister of Justice, and our Minister of Finance, are charged with the execution of our present decree.

NAPOLEON.

95. MACON'S BILL, NO. 2, MAY 1, 1810

Macon's Bill, No. 2, represented a second retreat in the policy of commercial restriction. Strictly speaking, the name is a misnomer as Nathaniel Macon had nothing to do with the framing of the act. It was skillfully used by Napoleon to embroil the United States in war with Great Britain.

Public Statutes at Large of the United States, Vol. 2, pp. 605-606.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, no British or French armed vessel shall be permitted to enter the harbors or waters under the jurisdiction of the United States; .. except when they shall be forced in by distress, .. or when charged with despatches or business from their government, or coming as a public packet for the conveyance of letters; ..

SEC. 2. *And be it further enacted*, That all pacific intercourse with any interdicted foreign armed vessels, the officers or crew thereof, is hereby forbidden, ..

SEC. 4. *And be it further enacted*, That in case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain

and France and their dependencies, and for other purposes," shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies and dependencies, and to the articles the growth, produce or manufacture of the dominions, colonies and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid.

APPROVED, May 1, 1810.

96. THE CADORE LETTER, AUGUST 5, 1810

The Cadore Letter represents a masterly and unscrupulous use by Napoleon of Macon's Bill No. 2, to draw the United States into war with Great Britain. He succeeded in committing the United States to the fact that the French decrees were repealed when actually they were not and then to war with Great Britain on the unjustifiable assumption.

Annals of the Congress of the United States, 11 Congress, 3 session, 1810-1811, p. 1235.

[The Duke of Cadore to General Armstrong.]

PARIS, August 5, 1810.

SIR: I have laid before His Majesty, the Emperor and King, the act of Congress of the 1st of May, taken from the Gazette of the United States, which you have sent to me.

His Majesty could have wished that this act, and all the other acts of the Government of the United States, which interest France, had always been officially made known to him. In general, he has only had a knowledge of them indirectly, and after a long interval of time. There have resulted from this delay serious inconveniences, which would not have existed if these acts had been promptly and officially communicated.

The Emperor had applauded the general embargo laid by the United States on all their vessels, because that measure, if it has been prejudicial to France, had in it at least nothing offensive to her honor. . .

The act of 1st March has raised the embargo, and substituted for it a measure the most injurious to the interests of France.

This act, of which the Emperor knew nothing until very lately, interdicted to American vessels the commerce of France, at the time it authorized that to Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Reprisal was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise. . .

Now Congress retrace their steps, (*revient sue ses pas*;) they revoke the act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans; in short, Congress engages to oppose itself to that one of the belligerent Powers which should refuse to acknowledge the right of neutrals.

In this new state of things, I am authorized to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council, and renounce the new principles of blockade, which they have wished to establish; or that the United States, conformably to the act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch, the Emperor is pleased in aggrandizing the United States, and, under all circumstances, that which can contribute to the independence, to the prosperity, and the liberty of the Americans, the Emperor will consider as conformable with the interests of his Empire.

Accept, sir, the assurance of my high consideration,

CHAMPAGNY, *Duc de Cadore*.

His Exc'y Gen. ARMSTRONG, &c.

97. THE DECLARATION OF WAR, 1812

June 1, Madison sent a special message to Congress pointing toward war with Great Britain. June 4, the declaration of war passed the House by a vote of 79 to 49. June 17, the bill passed the Senate, 19 to 13; June 18, the House accepted the Senate's amendments and Madison signed the bill.

Public Statutes at Large of the United States, Vol. 2, p. 755.

CHAP. CII. — *An Act declaring War between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their territories.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That war be and the same is hereby declared to exist between the United Kingdom of Great Britain and Ireland and the dependencies thereof, and the United States of America and their territories; and that the President of the United States is hereby authorized to use the whole land and naval force of the United States to carry the same into effect, and to issue to private armed vessels of the United States commissions or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects of the government of the said United Kingdom of Great Britain and Ireland, and the subjects thereof.

APPROVED, June 18, 1812.

98. THE TREATY OF GHENT, 1814

Signed December 24, 1814; ratification was completed February 17, 1815.

Public Statutes at Large of the United States, Vol. 8, pp. 218-223.

TREATY OF PEACE AND AMITY

Between his Britannic Majesty and the United States of America.

.....

ARTICLE THE FIRST.

THERE shall be a firm and universal peace between His Britannic Majesty and the United States, and between their respective countries, . . . All hostilities, both by sea and land, shall cease as soon as this treaty shall have been ratified by both parties. . . All territory . . . and possessions whatsoever, taken by either party from the other, during the war, or which may be taken after the signing of this treaty, excepting only the islands hereinafter mentioned, shall be restored without delay, and without . . . carrying away any . . . public property . . . or any slaves or other private property. And all archives, records, deeds, and papers . . . shall be, as far as may be practicable, forthwith restored and delivered to the proper authorities and persons to whom they respectively belong. Such of the islands in the Bay of Passamaquoddy

as are claimed by both parties, shall remain in the possession of the party in whose occupation they may be at the time of the exchange of the ratifications of this treaty, until the decision respecting the title to the said islands shall have been made in conformity with the fourth article of this treaty. No disposition made by this treaty, as to such possession of the islands and territories claimed by both parties, shall, in any manner whatever, be construed to affect the right of either.

.....

ARTICLE THE FOURTH.

...and whereas the several islands in the Bay of Passamaquoddy, which is part of the Bay of Fundy, and the island of Grand Menan in the said Bay of Fundy, are claimed by the United States as being comprehended within their aforesaid boundaries, which said islands are claimed as belonging to his Britannic Majesty, as having been at the time of, and previous to, the aforesaid treaty of one thousand seven hundred and eighty-three, within the limits of the province of Nova Scotia: In order, therefore, finally to decide upon these claims, it is agreed that they shall be referred to two commissioners to be appointed in the following manner, viz: one commissioner shall be appointed by his Britannic Majesty, and one by the president of the United States, by and with the advice and consent of the Senate thereof, and the said two commissioners so appointed shall be sworn impartially to examine and decide upon the said claims according to such evidence as shall be laid before them on the part of his Britannic Majesty and of the United States respectively. The said commissioners shall meet at Saint Andrews, in the province of New Brunswick, and shall have power to adjourn to such other place or places as they shall think fit. The said commissioners shall, by a declaration or report under their hands and seals, decide to which of the two contracting parties the several islands aforesaid do respectively belong, in conformity with the true intent of the said treaty of peace of one thousand seven hundred and eighty-three. And if the said commissioners shall agree in their decision, both parties shall consider such decision as final and conclusive...

ARTICLE THE FIFTH.

Whereas neither that point of the high lands lying due north from the source of the river St. Croix, and designated in the former treaty of peace between the two powers as the northwest angle of Nova-Scotia, nor the northwesternmost head of Connecticut river, has yet

been ascertained; and whereas that part of the boundary line between the dominions of the two powers which extends from the source of the river St. Croix directly north to the above-mentioned northwest angle of Nova-Scotia, thence along the said highlands which divide those rivers that empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean to the northwesternmost head of Connecticut river, thence down along the middle of that river to the forty-fifth degree of north latitude; thence by a line due west on said latitude until it strikes the river Iroquois or Cataraguy, has not yet been surveyed: it is agreed, that for these several purposes two commissioners shall be appointed, sworn, and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in the present article... The said commissioners shall make a map of the said boundary, and annex to it a declaration under their hands and seals, certifying it to be the true map of the said boundary, and particularizing the latitude and longitude of the northwest angle of Nova-Scotia, of the northwesternmost head of Connecticut river, and of such other points and the said boundary as they may deem proper. And both parties agree to consider such map and declaration as finally and conclusively fixing the said boundary...

ARTICLE THE SIXTH.

Whereas, by the former treaty of peace that portion of the boundary of the United States from the point where the forty-fifth degree of north latitude strikes the river Iroquois or Cataraguy to the lake Superior, was declared to be "along the middle of said river into lake Ontario, through the middle of said lake until it strikes the communication by water between that lake and lake Erie, thence along the middle of said communication into lake Erie, through the middle of said lake until it arrives at the water communication into the lake Huron, thence through the middle of said lake to the water communication between that lake and lake Superior." And whereas doubts have arisen what was the middle of the said river, lakes and water communications, and whether certain islands lying in the same were within the dominions of his Britannic majesty or of the United States: In order, therefore, finally to decide these doubts, they shall be referred to two commissioners, to be appointed, sworn, and authorized to act exactly in the manner directed with respect to those mentioned in the next preceding article, unless otherwise specified in this present article.

.....

ARTICLE THE SEVENTH.

It is further agreed that the said two last-mentioned commissioners, after they shall have executed the duties assigned to them in the preceding article, shall be, and they are hereby authorized, upon their oaths impartially to fix and determine, according to the true intent of the said treaty of peace, of one thousand seven hundred and eighty-three, that part of the boundary between the dominions of the two powers, which extends from the water communication between lake Huron, and lake Superior, to the most north-western point of the lake of the Woods, to decide to which of the two parties the several islands lying in the lakes, water communications, and rivers, forming the said boundary, do respectively belong, in conformity with the true intent of the said treaty of peace, of one thousand seven hundred and eighty-three; and to cause such parts of the said boundary, as require it, to be surveyed and marked. . .

.....

ARTICLE THE NINTH.

The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification; and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges, which they may have enjoyed or been entitled to in one thousand eight hundred and eleven, previous to such hostilities: *Provided always*, That such tribes or nations shall agree to desist from all hostilities, against the United States of America, their citizens and subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly. And his Britannic majesty engages, on his part, to put an end immediately after the ratification of the present treaty, to hostilities with all tribes or nations of Indians with whom he may be at war at the time of such ratification, and forthwith to restore to such tribes or nations, respectively, all the possessions, rights, and privileges, which they may have enjoyed or been entitled to, in one thousand eight hundred and eleven, previous to such hostilities: *Provided always*, That such tribes or nations shall agree to desist from all hostilities against his Britannic majesty, and his subjects, upon the ratification of the present treaty being notified to such tribes or nations, and shall so desist accordingly.

ARTICLE THE TENTH.

Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice, and whereas both his Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed that both the contracting parties shall use their best endeavors to accomplish so desirable an object.

.....

Done, in triplicate, at Ghent, the twenty-fourth day of December, one thousand eight hundred and fourteen.

GAMBIER,	(L.S.)
HENRY GOULBURN,	(L.S.)
WILLIAM ADAMS,	(L.S.)
JOHN QUINCY ADAMS,	(L.S.)
J. A. BAYARD,	(L.S.)
H. CLAY,	(L.S.)
JONA. RUSSELL,	(L.S.)
ALBERT GALLATIN.	(L.S.)

99. THE SECOND BANK OF THE UNITED STATES

The lack of a national bank to serve the fiscal agent of the Government had been seriously felt during the War of 1812. April 10, 1816, an act creating a second bank was approved by the President. The parts of the act here given are mainly those essential to an understanding of Jackson's attitude toward the institution.

Public Statutes at Large of the United States, Vol. 3, pp. 266-277.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That a bank of the United States of America shall be established, with a capital of thirty-five millions of dollars, divided into three hundred and fifty thousand shares, of one hundred dollars each share. Seventy thousand shares, amounting to the sum of seven millions of dollars... shall be subscribed and paid for by the United States, .. and two hundred and eighty thousand shares, amounting to the sum of twenty-eight millions of dollars, shall be subscribed and paid for by individuals, companies, or corporations. . .

SEC. 2. *And be it further enacted,* That subscriptions for the sum of twenty-eight millions of dollars, towards constituting the capital

of the said bank, shall be opened on the first Monday in July next. . . And the said subscriptions shall be opened under the superintendence of five commissioners at Philadelphia, and of three commissioners at each of the other places aforesaid, to be appointed by the President of the United States. . . and shall continue open every day . . . for the term of twenty days, exclusive of Sundays, when the same shall be closed. . . And if more than the amount of twenty-eight millions of dollars shall have been subscribed, then the said last mentioned commissioners shall deduct the amount of such excess from the largest subscriptions, in such manner as that no subscription shall be reduced in amount, while any one remains larger. . .

SEC. 6. *And be it further enacted*, That at the opening of subscription to the capital stock of the said bank, the Secretary of the Treasury shall subscribe, or cause to be subscribed, on behalf of the United States, the said number of seventy thousand shares, amounting to seven millions of dollars as aforesaid, to be paid in gold or silver coin, or in stock of the United States. . .

SEC. 7. *And be it further enacted*, That the subscribers to the said bank of the United States of America, their successors and assigns, shall be, and are hereby, created a corporation and body politic, by the name and style of "The president, directors, and company, of the bank of the United States," and shall so continue until the third day of March, in the year one thousand eight hundred and thirty-six, and by that name shall be . . . capable, in law, to have, purchase . . . and retain . . . lands . . . goods, chattels and effects . . . to an amount not exceeding, in the whole, fifty-five millions of dollars, including the amount of the capital stock aforesaid; and the same to sell . . . or dispose of; to sue and be sued . . . in all state courts having competent jurisdiction, and in any circuit court of the United States. . .

SEC. 8. *And be it further enacted*, That for the management of the affairs of the said corporation, there shall be twenty-five directors, five of whom, being stockholders, shall be annually appointed by the President of the United States, by and with the advice and consent of the Senate, not more than three of whom shall be residents of any one state; and twenty of whom shall be annually elected at the banking house in the city of Philadelphia, on the first Monday of January, in each year, by the qualified stockholders . . . of the said bank, other than the United States, and by a plurality of votes. . . *Provided always*, That no person, being a director in the bank of the United States, or any of its branches, shall be a director of any other bank; and should any such director act as a director in any other bank, it shall forthwith vacate his appointment in the direction of the bank of the United

States. And the directors, so duly appointed and elected, shall be capable of serving . . . from the first Monday in the month of January of each year, until the end and expiration of the first Monday in the month of January of the year next ensuing. . . And the board of directors, annually . . . shall proceed to elect one of the directors to be president of the corporation. . .

SEC. 9. *And be it further enacted*, That as soon as the sum of eight millions four hundred thousand dollars in gold and silver coin, and in the public debt, shall have been actually received on account of the subscriptions to the capital of the said bank (exclusively of the subscription aforesaid, on the part of the United States) notice thereof shall be given by the persons under whose superintendence the subscriptions shall have been made at the city of Philadelphia, in at least two newspapers printed in each of the places . . . where subscriptions shall have been made, and the said persons shall, at the same time . . . notify a time and place within . . . Philadelphia, at the distance of at least thirty days from the time of such notification, for proceeding to the election of twenty directors as aforesaid. . . And the President of the United States is hereby authorized, during the present session of Congress, to nominate, and, by and with the advice and consent of the Senate, to appoint, five directors of the said bank . . . and the persons who shall be elected and appointed . . . shall be the first directors of the said bank, and shall proceed to elect one of the directors, to be President of the said bank; and the directors and President . . . shall then and thenceforth commence, and continue the operations of the said bank, at the city of Philadelphia. . .

SEC. 11. *And be it further enacted*, That the following rules . . . shall . . . be fundamental articles of the constitution of the said corporation, to wit: . .

1. The number of votes to which the stockholders shall be entitled . . . shall be according to the number of shares . . . they, respectively, shall hold, . . for one share and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; . . and for every ten shares above one hundred, one vote; but no person, copartnership, or body politic shall be entitled to a greater number than thirty votes; . .

Third. None but a stockholder, resident citizen of the United States, shall be a director; . .

Fourteenth. The directors . . . shall establish a competent office of discount and deposit in the District of Columbia, whenever any law of the United States shall require such an establishment; also one such

office of discount and deposit in any state in which two thousand shares shall have been subscribed . . . whenever . . . upon application of the legislature of such state, Congress may by law, require the same: . . . And it shall be lawful for the directors . . . to establish offices of discount and deposit wheresoever they shall think fit within the United States. . .

Sixteenth. No stockholder, unless he be a citizen of the United States, shall vote in the choice of directors.

Seventeenth. No note shall be issued of less amount than five dollars. . .

SEC. 14. *And be it further enacted,* That the bills or notes of the said corporation originally made payable, or which shall have become payable on demand, shall be receivable in all payments to the United States, unless otherwise directed by act of Congress.

SEC. 15. *And be it further enacted,* That during the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States . . . without charging commissions or claiming allowance on account of difference of exchange. . .

SEC. 16. *And be it further enacted,* That the deposits of the money of the United States, in places in which the said bank and branches thereof may be established, shall be made in said bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct, in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and if not, immediately after the commencement of the next session, the reasons of such order or direction. . .

SEC. 20. *And be it further enacted,* That in consideration of the exclusive privileges and benefits conferred by this act, upon the said bank, the president, directors, and company thereof, shall pay to the United States, out of the corporate funds thereof, the sum of one million and five hundred thousand dollars, in three equal payments. . .

SEC. 21. *And be it further enacted,* That no other bank shall be established by any future law of the United States during the continuance of the corporation hereby created, for which the faith of the United States is hereby pledged. . .

SEC. 23. *And be it further enacted,* That it shall, at all times, be lawful, for a committee of either house of Congress, appointed for that purpose, to inspect the books, and to examine into the proceedings of the corporation hereby created, and to report whether the provisions of this charter have been, by the same, violated or not. . .

APPROVED, April, 1816.

100. THE WESTWARD MOVEMENT

The close of the war of 1812 saw a great lunge of population westward, creating one new state after another. One phase of the movement is illustrated in the following extracts from an English traveller, the founder of an English settlement in Illinois, himself enamoured of most things American. The dates are in 1817.

Morris Birkbeck, Notes on a journey in America, pp. 31-150. London, 1818.

WE have now fairly turned our backs on the old world, and find ourselves in the very stream of emigration. Old America seems to be breaking up, and moving westward. We are seldom out of sight, as we travel on this grand track, towards the Ohio, of family groups, behind and before us, some with a view to a particular spot, close to a brother perhaps, or a friend, who has gone before, and reported well of the country. Many like ourselves, when they arrive in the wilderness, will find no lodge prepared for them.

A small waggon (so light that you may almost carry it, yet strong enough to bear a good load of bedding, utensils and provisions, and a swarm of young citizens,—and to sustain marvellous shocks in its passage over these rocky heights) with two small horses; sometimes a cow or two, comprises their all; excepting a little store of hard-earned cash for the land office of the district; where they may obtain a title for as many acres as they possess half-dollars, being one fourth of the purchase money. The waggon has a tilt, or cover, made of a sheet, or perhaps a blanket. The family are seen before, behind, or within the vehicle, according to the road or weather, or perhaps the spirits of the party. . .

A blacksmith here earns 20 dollars per month, and board; . . Firewood is two dollars per cord:—the price is merely the labour, as is, in fact, a great part of what you pay for every thing. Thus, nothing but land is cheap in this country, . . Land will long be at a low price, but as produce hardly keeps pace with the population, the latter is proportionately dear. Therefore agriculture is and will be a safe and profitable occupation. . .

May 28. The condition of the people of America is so different from aught that we in Europe have an opportunity of observing, that it would be difficult to convey an adequate notion of their character.

They are great travellers; . .

They are also a migrating people; . .

To give an idea of the internal movements of this vast hive, about

12,000 waggons passed between Baltimore and Philadelphia, in the last year, with from four to six horses, carrying from thirty-five to forty cwt. The cost of carriage is about seven dollars per cwt., from Philadelphia to Pittsburg, and the money paid for the conveyance of goods on this road, exceeds £ 300,000 sterling. Add to these the numerous stages loaded to the utmost, and the innumerable travellers, on horseback, on foot, and in light waggons, and you have before you a scene of bustle and business, extending over a space of three hundred miles, which is truly wonderful. . .

It is more usual for a party, or even for individuals, who have no business on land, to pass down the Ohio. "Arks," of which hundreds are on the river, are procured of a size suitable for the number. They are long floating rooms, built on a flat bottom, with rough boards, and arranged within for sleeping and other accommodations. You hire boatmen and lay in provisions, and, on your arrival at the destined port, sell your vessel as well as you can, possibly at half cost. On the whole, when the navigation is good, this is pleasant and cheap travelling. . .

June 8. We were detained at Washington by the indisposition of one of our party, and to-day proceeded only twenty-two miles to Ninian Beall's Tavern. . .

Our host has a small and simple establishment, .. His little history may serve as an example of the natural growth of property in this young country.

He is about thirty; has a wife and three fine healthy children: his father is a farmer; that is to say, a proprietor, living five miles distant. From him he received five hundred dollars, .. Two years ago he had increased his property to nine hundred dollars; purchased this place; a house, stable, &c. and two hundred and fifty acres of land (sixty-five of which are cleared and laid down to grass,) for three thousand five hundred dollars, of which he has already paid three thousand, and will pay the remaining five hundred next year. He is now building a good stable, and going to improve his house. His property is at present worth seven thousand dollars; having gained, or rather grown, five thousand five hundred dollars in two years, with prospects of future accumulation to his utmost wishes. Thus it is that people here grow wealthy without extraordinary exertion, and without any anxiety. . .

Emigrants with small capitals are liable to great inconvenience, unless they have a particular situation provided for them by some precursor on whom they can depend. Money is powerful in this country in purchasing land, but weak in providing the means of living, except as to the bare necessities of life. Thus the travelling expences of emi-

grants are heavy, in addition to the waste of time in long peregrinations. . .

As particular histories lead to correct general notions, I shall give another little tale of early difficulties, related to us by a cheerful intelligent farmer, from the neighborhood of Chillicothe, who made one of our party at the inn this evening. Fourteen years ago, he also came into this new settlement, and "unloaded his family under a tree," on his present estate; where he has now two hundred acres of excellent land, cleared and in good cultivation, capable of producing from eighty to one hundred bushels of Indian corn per acre.

The settlers in a country entirely new, are generally of the poorer class, and are exposed to difficulties, independent of unhealthy situations, which may account for the mortality that sometimes prevails among them. The land, when intended for sale, is laid out in the government surveys in quarter sections of 160 acres, being one fourth of a square mile. The whole is then offered to the public by auction, and that which remains unsold, which is generally a very large proportion, may be purchased at the land office of the district, at two dollars per acre, one fourth to be paid down, and the remaining three-fourths at several instalments, to be completed in five years. . .

The number of emigrants who passed this way, was greater last year than in any preceding; and the present spring they are still more numerous than the last. Fourteen waggons yesterday, and thirteen to-day, have gone through this town. Myriads take their course down the Ohio. The waggons swarm with children. I heard to-day of three together, which contain forty-two of these young citizens. . .

To-day we passed various groups of emigrants proceeding westward: one waggon, in particular, was the moving habitation of twenty souls. . .

Land with some "improvements" (land cleared) is worth from twenty to thirty dollars per acre.

Thus the poor man who entered his quarter section of one hundred and sixty acres twelve years ago, and had paid three hundred and twenty dollars for it at the end of five, has supported his family, during this time, and now finds himself worth from three to four thousand dollars, besides his moveable property. Such is the natural progress of an Ohio settler. . .

Cincinnati is . . . a most thriving place, and backed as it is already by a great population and a most fruitful country, bids fair to be one of the first cities of the west. We are told, and we cannot doubt the fact, that the chief of what we see is the work of four years. The hundreds of commodious, well-finished brick houses, the spacious and busy markets, the substantial public buildings, the thousands of prosperous

well-dressed, industrious inhabitants, the numerous waggons and drays, the gay carriages and elegant females; — the shoals of craft on the river, the busy stir prevailing every where, houses building, boat building, paving and levelling streets; the numbers of country people, constantly coming and going, with the spacious taverns, crowded with travellers from a distance.

All this is so much more than I could comprehend, from a description of a new town, just risen from the woods, that I despair of conveying an adequate idea of it to my English friends. It is enchantment, and Liberty is the fair enchantress.

I was assured by a respectable gentleman, one of the first settlers, and now a man of wealth and influence, that he remembers when there was only one poor cabin where this noble town now stands. . .

Indiana is evidently newer than the state of Ohio; . .

Such is the influx of strangers into this state, that the industry of the settlers is severely taxed to provide food for themselves, and a superfluity for new comers: and thus it is probable there will be a market for all the spare produce, for a series of years, owing to the accession of strangers, as well as the rapid internal growth of population. . .

It has struck me as we have passed along from one poor hut to another among the rude inhabitants of this infant state, that travellers in general, who judge by comparison, are not qualified to form a fair estimate of these lonely settlers. Let a stranger make his way through England, in a course remote from the great roads, and going to no inns, take such entertainment only as he might find in the cottages of labourers, he would have as much cause to complain of the rudeness of the people, and far more of their drunkenness and profligacy than in these backwoods, although in England the poor are a part of a society where institutions are matured by the experience of two thousand years. . .

In viewing the Americans, and sketching, in a rude manner, as I pass along, their striking characteristics, I have seen a deformity so general that I cannot help esteeming it national, . . Cleanliness in houses and too often in person, is neglected to a degree which is very revolting to an Englishman.

America was bred in a cabin: this is not a reproach; for the origin is most honourable: but as she has exchanged her hovel of unhewn logs for a framed building, and that again for a mansion of brick, some of her cabin habits have been unconsciously retained. . .

Our journey across the Little Wabash was a complete departure from all marks of civilization . . . we at length arrived at the cabin of another hunter, where we lodged.

This man and his family are remarkable instances of the effect on

the complexion, produced by the perpetual incarceration of a thorough woodland life. . . Buried in the depth of a boundless forest, the breeze of health never reaches these poor wanderers; the bright prospect of distant hills fading away into the semblance of clouds, never cheered their sight: they are tall and pale, like vegetables that grow in a vault, pining for light. . .

In passing through a vast expanse of the backwoods, I have been so much struck with this effect, that I fancy I could determine the colour of the inhabitants, if I was apprised of the depth of their immersion; and, *vice versa*, I could judge of the extent of the "clearing" if I saw the people. . .

The cabin, which may serve as a specimen of these rudiments of houses, was formed of round logs, with apertures of three or four inches between: no chimney, but large intervals between the "clap-boards," for the escape of the smoke. The roof was, however, a more effectual covering than we have generally experienced, as it protected us very tolerably from a drenching night. Two bedsteads of unhewn logs, and cleft boards laid across; — two chairs, one of them without a bottom, and a low stool, were all the furniture required by this numerous family. A string of buffalo hide, stretched across the hovel, was a wardrobe for their rags; and their utensils, consisting of a large iron pot, some baskets, the effective rifle and two that were superannuated, stood about in corners, and the fiddle, which was only silent when we were asleep, hung by them. . .

Shawnee Town. . .

Here is the land office for the south-east district of Illinois, where I have just constituted myself a land-owner by paying seven hundred and twenty dollars, as one fourth of the purchase money of fourteen hundred and forty acres: this. . . is part of a beautiful and rich prairie, about six miles distant from the Big, and the same from the Little Wabash.

The land is rich natural meadow, bounded by timbered land, within reach of two navigable rivers, and may be rendered immediately productive at a small expence. . .

Nothing but fencing and providing water for stock is wanted to reduce a prairie into the condition of useful grass land; and from that state, we all know, the transition to arable is through a simple process, easy to perform, and profitable as it goes on. . .

The great want of capital in this country is evinced by this circumstance: the growers of "corn" (Indian corn) and other grain, sell at this season regularly, under the knowledge that it will as regularly advance to double the price before the next harvest. . . We may judge

from this consideration how much the farmer is kept back for want of spare capital; and what will be the advantages of the settler who commands it. The same remark applies to bacon, and every article of produce.

We must not suppose, that the poor farmer who is obliged to sell under such a disadvantage, is absolutely *poor*. He is, on the contrary, a thriving man. . . He is growing rich, but he would proceed at a double speed, if he had the value of one year's crop beforehand: such is the general condition of new settlers.

A good cow and calf is worth from twelve to twenty dollars; . . a sow three dollars; a stout horse for drawing, sixty dollars or upwards.

Wheat sells at 3s. 4 1-2d. sterling, per bushel, Winchester measure.

Oats, 1s. 4d.

Indian corn, 11d.

Hay, about 35s. per ton.

Flour, per barrel, 36s.: 196 lb. nett.

Fowls, 4 1-2d. each.

Eggs, 1-2d.

Butter, 6d. per pound.

Cheese, rarely seen, 13 1-2d. per lb.

Meat, 2d. per lb.

A buck, 4s. 6d. without the skin.

Salt, 3s. 4d. per bushel.

Milk, given away.

Tobacco, 3d. per pound.

. . . the tavern charges are reasonable. Our board is two dollars per week, each person, for which we receive twenty-one meals. Excellent coffee and tea, with broiled chickens, bacon, &c. for breakfast and supper; and variety of good but simple fare at dinner; about five pence sterling a meal. No liquor but water is thought of at meals in this country, besides coffee, tea, or milk.

Travelling expences are very regular and moderate, amounting to a dollar per day, for man and horse, — viz. —

Breakfast and feed for horse 37 1-2 Cents

Feed for horses at noon 12 1-2

Supper, lodging, man and horse 50

100 that is 1 dollar.

The power of capital in this newly settled or *settling* region, is not thoroughly understood in the eastern states, or emigration would not be confined to the indigent or laborious classes. . . Emigrants from Europe are too apt to linger in the eastern cities, wasting their time,

their money, and their resolution. They should push out westward without delay, where they can live cheaply until they fix themselves. Two dollars, saved in Pennsylvania, will purchase an acre of good land in the Illinois.

The land carriage from Philadelphia, to Pittsburg, is from seven to ten dollars per cwt. (100 lb.) Clothing, razors, pocket-knives, pencils, mathematical instruments, and light articles in general, of constant usefulness, ought to be carried even at this expence, and books, which are scarce, and much wanted in the west. Good gunlocks are rare and difficult to procure. No heavy implements will pay carriage. . .

August 7. We are now domiciliated in Princeton. Though at the farthest limits of Indiana, but two years old, and containing about fifty houses, this little town affords respectable society: it is the county-town, and can boast as many well-informed genteel people, in proportion to the number of inhabitants, as any county-town I am acquainted with. I think there are half as many individuals who are entitled to that distinction as there are houses, and not one decidedly vicious character, nor one that is not able and willing to maintain himself. . .

101. MADISON'S VETO OF THE BONUS BILL

The so-called Bonus Bill was a measure proposing to apply to works of internal improvement the bonus paid for its charter by the Second Bank. In his veto, Madison applied the principles of strict construction of the constitution. Compare his reasoning on the powers of Congress with that of Marshall in McCulloch vs. Maryland.

Richardson, Messages and Papers of the Presidents, Vol. 1, pp. 584-585.

MARCH 3, 1817.

To the House of Representatives of the United States:

HAVING considered the bill this day presented to me entitled "An act to set apart and pledge certain funds for internal improvements," and which sets apart and pledges funds "for constructing roads and canals, and improving the navigation of water courses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defense," I am constrained by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States to return it with that objection to the House of Representatives, in which it originated.

The legislative powers vested in Congress are specified and enumerated in the eighth section of the first article of the Constitution, and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers, or that it falls by any just interpretation within the power to make laws necessary and proper for carrying into execution those or other powers vested by the Constitution in the Government of the United States.

"The power to regulate commerce among the several States" can not include a power to construct roads and canals, and to improve the navigation of water courses. . .

To refer the power in question to the clause "to provide for the common defense and general welfare" would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follow the clause nugatory and improper. Such a view of the Constitution would have the effect of giving to Congress a general power of legislation instead of the defined and limited one hitherto understood to belong to them. . .

If a general power to construct roads and canals, and to improve the navigation of water courses, with the train of powers incident thereto, be not possessed by Congress, the assent of the States in the mode provided in the bill can not confer the power. The only cases in which the consent and cession of particular States can extend the power of Congress are those specified and provided for in the Constitution.

I am not unaware of the great importance of roads and canals and the improved navigation of water courses, and that a power in the National Legislature to provide for them might be exercised with signal advantage to the general prosperity. But seeing that such a power is not expressly given by the Constitution, and believing that it can not be deduced from any part of it without an inadmissible latitude of construction and a reliance on insufficient precedents; believing also that the permanent success of the Constitution depends on a definite partition of powers between the General and the State Governments, and that no adequate landmarks would be left by the constructive extension of the powers of Congress as proposed in the bill, I have no option but to withhold my signature from it, and to cherishing the hope that its beneficial objects may be attained by a resort for the necessary powers to the same wisdom and virtue in the nation which established the Constitution in its actual form and providently marked out in the instrument itself a safe and practicable mode of improving it as experience might suggest.

JAMES MADISON.

102. THE RUSH-BAGOT AGREEMENT, 1818

In effect the following document neutralized the waters common to the United States and Canada. It marked the beginning of the unfortified frontier between the two countries, so significant an argument for international peace. It was proclaimed by Monroe on April 28, 1818.

Public Statutes at Large of the United States, Vol. 8, p. 231.

ARRANGEMENT

BETWEEN the United States and Great Britain, between Richard Rush, Esq., acting as Secretary of the Department of State, and Charles Bagot, His Britannic Majesty's Envoy Extraordinary, &c.

The naval force to be maintained upon the American lakes, by his majesty and the government of the United States, shall henceforth be confined to the following vessels on each side; that is —

On lake Ontario, to one vessel not exceeding one hundred tons burden, and armed with one eighteen pound cannon.

On the upper lakes, to two vessels, not exceeding like burden each, and armed with like force.

On the waters of lake Champlain, to one vessel not exceeding like burden, and armed with like force.

All other armed vessels on these lakes shall be forthwith dismantled, and no other vessels of war shall be there built or armed.

If either party should hereafter be desirous of annulling this stipulation, and should give notice to that effect to the other party, it shall cease to be binding after the expiration of six months from the date of such notice.

The naval force so to be limited shall be restricted to such services as will, in no respect, interfere with the proper duties of the armed vessels of the other party.

103. THE OREGON CONVENTION OF 1818

In 1819 and 1824 the United States extinguished the Spanish and Russian claims to Oregon; by the following document and its renewals a final settlement with Great Britain was postponed until 1846. It was concluded October 20, 1818.

Public Statutes at Large of the United States, Vol. 8, pp. 248-250.

CONVENTION WITH GREAT BRITAIN

[Preamble recites appointment of plenipotentiaries]

Who, after having exchanged their respective full powers, found to be in due and proper form, have agreed to and concluded the following articles:

.....

ARTICLE 3.

It is agreed that any country that may be claimed by either party on the northwest coast of America, westward of the Stony Mountains, shall, together with its harbours, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of the present convention to the vessels, citizens, and subjects of the two powers; it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claims of any other power or state to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences amongst themselves.

104. THE FLORIDA CESSION

February 22, 1819, a treaty was concluded between the United States and Spain by which Spain, in effect, recognized the United States' acquisition of West Florida, ceded her the remainder of Florida and delimited the boundary of the two powers to the west.

Public Statutes at Large of the United States, Vol. 8, pp. 252-264.

TREATY OF AMITY, SETTLEMENT, AND LIMITS,

Between the United States of America and his Catholic Majesty.

THE United States of America and his Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a Treaty, which shall designate, with precision, the limits of their respective bordering territories on North America. . .

ARTICLE 1.

There shall be a firm and inviolable peace and sincere friendship between the United States and their citizens, and his Catholic Majesty, his successors and subjects, without exception of persons or places.

ARTICLE 2.

His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands dependent on said provinces, all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other buildings, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries or officers of the United States, duly authorized to receive them.

ARTICLE 3.

The boundary line between the two countries, west of the Mississippi, shall begin on the Gulph of Mexico, at the mouth of the river Sabine, in the sea, continuing north, along the western bank of that river to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo of Nachitoches, or *Red River*; then following the course of the Rio Roxo westward, to the degree of longitude 100 west from London and 23 from Washington; then, crossing the said Red River, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to the South Sea. The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But, if the source of the Arkansas river shall be found to fall north or south of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the South Sea: All the islands in the Sabine, and the said Red and Arkansas rivers, throughout the course thus described, to belong to the United States; but the use of the waters, and the navigation of the Sabine to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations. . .

ARTICLE 5.

The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction; and all those who may desire to remove to the Spanish dominions, shall be permitted to sell or export their effects, at any time whatever, without being subject, in either case, to duties.

ARTICLE 6.

The inhabitants of the territories which his Catholic Majesty cedes to the United States, by this Treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities, of the citizens of the United States.

.....

ARTICLE 8.

All the grants of land made before the 24th of January, 1818, by his Catholic Majesty, or by his lawful authorities, in the said territories ceded by his Majesty to the United States, shall be ratified. . . All grants made since the said 24th of January, 1818, when the first proposal, on the part of his Catholic Majesty, for the cession of the Floridas, was made, are hereby declared, and agreed to be, null and void. . .

ARTICLE 11.

The United States, exonerating Spain from all demands in future, on account of the claims of their citizens . . . undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a Commission, to consist of three Commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, which Commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of, all the claims included within the descriptions above mentioned. . .

ARTICLE 15.

The United States . . . agree that Spanish vessels, coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain, or of her colonies, shall be admitted, for the term

of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or of tonnage, than will be paid by the vessels of the United States. During the said term, no other nation shall enjoy the same privileges within the ceded territories. . .

Done at Washington, this twenty-second day of February, one thousand eight hundred and nineteen.

JOHN QUINCY ADAMS, (L.S.)
LUIS DE ONIS, (L.S.)

105. McCULLOCH vs. MARYLAND

In this decision, handed down in March, 1819, Marshall affirmed on principles of liberal construction, the right of Congress to establish a bank and the illegality of the state act of Maryland seeking to tax out of existence a branch of the bank.

United States Supreme Court Reports, 4 Wheaton, pp. 400-437
(4 Law. Ed., pp. 600-609).

MARSHALL, Ch. J., delivered the opinion of the court:

In the case now to be determined, the defendant, a sovereign state, denies the obligation of a law enacted by the legislature of the Union, and the plaintiff, on his part, contests the validity of an act which has been passed by the legislature of that state. The constitution of our country, in its most interesting and vital parts, is to be considered; the conflicting powers of the government of the Union and of its members, as marked in that constitution, are to be discussed; and an opinion given, which may essentially influence the great operations of the government. No tribunal can approach such a question without a deep sense of its importance, and of the awful responsibility involved in its decision. But it must be decided peacefully, or remain a source of hostile legislation, perhaps of hostility of a still more serious nature; and if it is to be so decided, by this tribunal alone can the decision be made. On the Supreme Court of the United States has the constitution of our country devolved this important duty.

The first question made in the cause is, has Congress power to incorporate a bank? . .

In discussing this question, the counsel for the state of Maryland have deemed it of some importance, in the construction of the constitution, to consider that instrument not as emanating from the people, but as the act of sovereign and independent states. . .

It would be difficult to sustain this proposition. . .

The government of the Union, then (whatever may be the influence of this fact on the case), is, emphatically, and truly, a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit. . .

If any one proposition could command the universal assent of mankind, we might expect it would be this — that the government of the Union, though limited in its powers, is supreme within its sphere of action. . .

The government of the United States, then, though limited in its powers, is supreme; and its laws, when made in pursuance of the constitution, form the supreme law of the land, “anything in the constitution or laws of any state to the contrary notwithstanding.” . .

The government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception. . .

But the constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the government to general reasoning. To its enumeration of powers is added that of making “all laws which shall be necessary and proper; for carrying into execution the foregoing powers, and all other powers vested by this constitution, in the government of the United States, or in any department thereof.”

The counsel for the State of Maryland have urged various arguments, to prove that this clause, though in terms of a grant of power, is not so in effect; but is really restrictive of the general right, which might otherwise be implied, of selecting means for executing the enumerated powers. . .

But the argument on which most reliance is placed, is drawn from the peculiar language of this clause. Congress is not empowered to make all laws, which may have relation to the powers conferred on the government, but such only as may be “necessary and proper” for carrying them into execution. The word “necessary” is considered as controlling the whole sentence, and as limiting the right to pass laws for the execution of the granted powers, to such as are indispensable, and without which the power would be nugatory. That it excludes the choice of means, and leaves to Congress, in each case, that only which is most direct and simple.

Is it true that this is the sense in which the word “necessary” is

always used? Does it always import an absolute physical necessity, . . . We think it does not. . . A thing may be necessary, very necessary, absolutely or indispensably necessary. . . This word, then, like others, is used in various senses; and, in its construction, the subject, the context, the intention of the person using them, are all to be taken into view. . . To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances. . .

We admit, as all must admit, that the powers of the government are limited, and that its limits are not to be transcended. But we think the sound construction of the constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional. . .

After the most deliberate consideration, it is the unanimous and decided opinion of this court that the act to incorporate the bank of the United States is a law made in pursuance of the constitution, and is a part of the supreme law of the land. . .

It being the opinion of the court that the act incorporating the bank is constitutional, and that the power of establishing a branch in the state of Maryland might be properly exercised by the bank itself, we proceed to inquire:

2. Whether the state of Maryland may, without violating the constitution, tax that branch? . .

If we measure the power of taxation residing in a state, by the extent of sovereignty which the people of a single state possess, and can confer on its government, we have an intelligible standard. . . We have a principle which leaves the power of taxing the people and property of a state unimpaired; which leaves to a state the command of all its resources, and which places beyond its reach, all those powers which are conferred by the people of the United States on the government of the Union, and all those means which are given for the purpose of carrying those powers into execution. . .

But, waiving this theory for the present, let us resume the inquiry, whether this power can be exercised by the respective states, consistently with a fair construction of the constitution.

That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance, in conferring on one government a power to control the constitutional measures of another, which other, with respect to those very measures, is declared to be supreme over that which exerts the control, are propositions not to be denied. . .

If we apply the principle for which the state of Maryland contends, to the constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the government, and of prostrating it at the foot of the states. The American people have declared their constitution, and the laws made in pursuance thereof, to be supreme; but this principle would transfer the supremacy, in fact, to the states. . . This was not intended by the American people. This did not design to make their government dependent on the states. . .

The court has bestowed on this subject its most deliberate consideration. The result is a conviction that the states have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operations of the constitutional laws enacted by Congress to carry into execution the powers vested in the general government. This is, we think, the unavoidable consequence of that supremacy which the constitution has declared.

We are unanimously of opinion that the law passed by the legislature of Maryland, imposing a tax on the Bank of the United States, is unconstitutional and void.

This opinion does not deprive the states of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank, in common with the other real property within the state, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the state. But this is a tax on the operations of the bank, and is, consequently, a tax on the operation of an instrument employed by the government of the Union to carry its powers into execution. Such a tax must be unconstitutional.

106. THE MISSOURI COMPROMISE

In the following group of documents the first is the Tallmadge Amendment to the Missouri Enabling Act.

Annals of Congress, 15 Congress, 2 session, p. 1170.

The second is the Thomas Amendment of February 3, 1820, the essential of the Missouri Compromise as finally adopted.

Annals of Congress, 16 Congress, 1 session, pp. 363.

The third is the act enabling the people of Missouri to form a state constitution as finally passed, March 6, 1820.

Statutes at Large of the United States, Vol. 3, pp. 545-548.

The fourth is the part of the Constitution of Missouri that barred free negroes from entering the state.

Poore, Federal and State Constitutions, vol. 2, pp. 1107-1108.

The fifth is the so-called Second Missouri Compromise, intended to nullify the obnoxious provision in the Missouri Constitution.

Statutes at Large of the United States, vol. 3, p. 645.

THE TALLMADGE AMENDMENT, FEBRUARY 15, 1819

THE House having again resolved itself into a Committee of the Whole, (MR. SMITH of Maryland in the chair,) on the bill to authorize the people of the Missouri Territory to form a constitution and State government, and for the admission of the same into the Union —

The question being on the proposition of MR. TALLMADGE to amend the bill by adding to it the following proviso:

"And provided, That the further introduction of slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after the admission thereof into the Union, shall be free at the age of twenty-five years."

THE THOMAS AMENDMENT

THURSDAY, February 3, [1820]

.....

MR. THOMAS, of Illinois, submitted the following additional section, as an amendment to the Missouri bill, (which, it was proposed, by a report of the Judiciary Committee, to incorporate with the Maine bill,) viz:

"And be it further enacted, That in all that tract of country ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof, as is included within the limits of the State contemplated by this act, there shall be neither slavery nor involuntary servitude otherwise than in the punishment of crimes whereof

the party shall have been duly convicted: *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

.....

THE MISSOURI ENABLING ACT

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the inhabitants of that portion of the Missouri territory included within the boundaries hereinafter designated, be, and they are hereby, authorized to form for themselves a constitution and state government, and to assume such name as they shall deem proper; and the said state, when formed, shall be admitted into the Union, upon an equal footing with the original states, in all respects whatsoever...

SEC. 3. *And be it further enacted*, That all free white male citizens of the United States, who shall have arrived at the age of twenty-one years, and have resided in said territory three months previous to the day of election, and all other persons qualified to vote for representatives to the general assembly of the said territory, shall be qualified to be elected, and they are hereby qualified and authorized to vote, and choose representatives to form a convention...

SEC. 4. *And be it further enacted*, That the members of the convention thus duly elected... are hereby authorized to meet at the seat of government of said territory on the second Monday of the month of June next... and which convention, when so met, shall first determine by a majority of the whole number elected, whether it be, or be not, expedient at that time to form a constitution and state government for the people within the said territory... and if it be deemed expedient, the convention... is, authorized to form a constitution and state government... *Provided*, That the same, whenever formed, shall be republican, and not repugnant to the constitution of the United States; and that the legislature of said state shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the *bona fide* purchasers; and that no tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents...

SEC. 7. *And be it further enacted*, That in case a constitution and state government shall be formed for the people of the said territory of Missouri, the said convention or representatives, as soon thereafter

as may be, shall cause a true and a tested copy of such constitution, or frame of state government, as shall be formed or provided, to be transmitted to Congress.

SEC. 8. *And be it further enacted*, That in all territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the state, contemplated by this act, slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be, and is hereby, forever prohibited: *Provided always*, That any person escaping into the same, from which labour or service is lawfully claimed, in any state or territory of the United States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labour or service as aforesaid.

APPROVED, March 6, 1820.

THE CONSTITUTION OF MISSOURI, 1820

ARTICLE III.

OF THE LEGISLATIVE POWER.

...SEC. 26. The general assembly shall not have power to pass laws —

1. For the emancipation of slaves without the consent of their owners; or without paying them, before such emancipation, a full equivalent for such slaves so emancipated; and,

2. To prevent *bona-fide* immigrants to this State, or actual settlers therein, from bringing from any of the United States, or from any of their Territories, such persons as may there be deemed to be slaves, so long as any persons of the same description are allowed to be held as slaves by the laws of this State.

They shall have power to pass laws —

1. To prohibit the introduction into this State of any slaves who may have committed any high crime in any other State or Territory;

2. To prohibit the introduction of any slave for the purpose of speculation, or as an article of trade or merchandise;

3. To prohibit the introduction of any slave, or the offspring of any slave, who heretofore may have been, or who hereafter may be, imported from any foreign country into the United States, or any Territory thereof, in contravention of any existing statute of the United States; and,

4. To permit the owners of slaves to emancipate them, saving the right of creditors, where the person so emancipating will give security that the slave so emancipated shall not become a public charge.

It shall be their duty, as soon as may be, to pass such laws as may be necessary —

1. To prevent free negroes and mulattoes from coming to and settling in this State, under any pretext whatsoever; and,

2. To oblige the owners of slaves to treat them with humanity, and to abstain from all injuries to them extending to life or limb.

SEC. 27. In prosecutions for crimes, slaves shall not be deprived of an impartial trial by jury, and a slave convicted of a capital offence shall suffer the same degree of punishment, and no other, that would be inflicted on a white person for a like offence; and courts of justice, before whom slaves shall be tried, shall assign them counsel for their defence.

SEC. 28. Any person who shall maliciously deprive of life or dismember a slave, shall suffer such punishment as would be inflicted for the like offence if it were committed on a free white person...

THE ADMISSION OF MISSOURI

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That Missouri shall be admitted into this union on an equal footing with the original states, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said state to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen, of either of the states in this Union, shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: Provided, That the legislature of the said state, by a solemn public act, shall declare the assent of the said state to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof, the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said state into this Union shall be considered as complete.

APPROVED, March 2, 1821.

107. THE SETTLEMENT OF TEXAS

From the time that the annexation of Texas to the United States was first proposed, zealous anti-slavery advocates denounced the measure as a plot to add slave states to the United States, a plot beginning with the first settlement of Texas by Americans. The following documents accordingly acquire importance, as revealing what really were the purposes and circumstances under which Texas was resettled.

American Historical Association, Annual Report, 1919, vol. 2, Part 1, pp. 370-775. The Austin Papers, Washington, 1924.

EXAMINATION OF MOSES AUSTIN

AT the City of San Fernando de Bexar, the 23^d day of December, A D 1820: The Governor of the Province of Texas, Colonel Don Antonio Martinez, .. summoned to appear at this office the foreigner Moses Austin, who arrived to-day in this city, with two other persons. Said Moses Austin being present was required through the Baron de Bastrop who had promised well and truly to discharge the duty of Interpreter, to make true answers to such questions as might be propounded to him, answered as follows.

Questioned as to his name, native country and residence — Answered: That he is a native of the State of Connecticut, actually a resident of Missouri, is a catholic, a merchant and dealer in lead ore.

Asked:— Whence he came, who accompanied him, and what is his object in entering this Province? Answered: That he came from Missouri through Nachitotches, that he had been accompanied by a negro boy belonging to him, and two other Americans; that he came to this Province for the purpose of applying to the Government for authorization to settle himself in it with his family, inasmuch as he had already been a subject of the Government of Spain, as is proved by a passport, which he presented, signed by Don Carlos Martinez de Irujo, Minister Plenipotentiary of His Majesty, signed at Philadelphia, the 13th July, 1797; ..

.....

Asked: If he has any further statements to make; Answered in the negative, He, further, ratified the foregoing answers, and declared himself to be 53 years of age; Whereupon, he signed these presents, with me and assisting witnesses — Moses Austin — Antonio Martinez — Baron de Bastrop — Francisco Montes — Ylario de la Garza.

.....

MOSES AUSTIN TO J. E. B. AUSTIN

St Louis Apr 8 1821

MY DEAR SON

... I much wish to see you return to this country before I leave it for the Spanish province of *Texas*. I have made a visit to St Antonio and obtained liberty to settle in that country — ... I ... obtained what I asked for a right of settlement for myself and family the situation I have marked out is on the *Colorado* about 3 Days sail from New Orleans or rather from *the Belise* a most delightful situation and on the Bay of *San Bernard* the Harbour is good with 12 or 13 feet water over the *Barr* after which — 25 or 30 feet for some miles up the river with boat Navigation, *150 miles* — I have asked for leave of settlement for 300 families and (200) Thousand Acres of Land to open a Port Town at the *mouth of the River* which has been granted me by the Governor of the Province of Texas and has gone on to the Vice King for his confirmation, I have been offered as many *Names* of respectable families as will make up the Number but untill I return I shall not admitt any as my wish is to have the lands survey'd before I introduce any families at all. I shall take with me about 30 young men to commence the settlement and return after your mother next year. ... If you examin Melishes Map of the United States you will find the Bay of San Bernard and the River Colorado at the mouth of which I calculate to lay of the Town of *Austina*, which will be in a few years equal to New Orleans in Consequence if not in wealth.

God bless you my son

MOSES AUSTIN

.....

STEPHEN F. AUSTIN TO MOSES AUSTIN

Nachitoches July 4 1821

.....

... The following is a rough Translation of the order from Arredondo to Martinez —

“The Supreme Cortes of these provinces having deliberated on the representation made to me in your official note of the 26 December No. 111 — I have just received their resolution with which I have conformed it is as follows —

It is expedient to grant the permission which Moses Austin solicited to establish himself with three hundred families in the Province of

Texas, on the conditions specified in his memorial on this subject which accompanied your official letter — provided that the following conditions be complied with —

1st All who emigrate under this permission must be *Catholics*, or agree to be so, before they remove —

2d They must take the oath of allegiance to be faithful to the King and Constitution etc

3 They must be *honest, industrious* farmers and mechanics — and the applicant M Austin, will be held responsible for their good conduct” — (This is the substance of Arredondos order to Martinez) “and you are directed to send this intelligence to the party interested by a confidential messenger.

Dated Monterey Jan^y 17 1821

Sign^d JOAQUIN DE ARREDONDO ”

To the Gov^r of the Province of Texas

The balance of the paper is an order from Martinez to Erasmo — directing him to seek you and communicate this, and to inform you also that by an ordinance of the King, and a decree of the Council of the Oriental Provinces, a *Port* is ordered to be opened in the Bay of St Bernardo

.....

Your Son

S. F. AUSTIN

.....

AUSTIN TO COLONEL CHARLES CALDWELL

Bexar July 17 1823

DR. SIR,

... My business is all happily terminated and I shall immediately commence distributing the land — ... My grant is approved by the Sovereign Congress and Supreme Executive power since the fall of Iturbide — The smallest quantity of land which a family that *farms* and *raises stock*, both, will receive is one league square or five thousands yards square — the cost will be 12½ cents *pr.* acre —

... In conjunction with the commissioner, I have full power to increase the quantity of land to more than a league for a family, in case it should be necessary to accommodate a large family — You will perceive by the enclosed that the number for Brazos and Colorado settlement is limited, the balance must settle on the Guadalupe and St. Marcos and near this place etc. etc. — so say the Govt. —

... This Province under the Federal System presents the most bril-

liant prospects for the future. I repeat, that anything in my power to do, to induce you and your friends to form a part of the Colorado or Brazos settlement shall be done with pleasure.

[Autograph letter by Austin. Signature clipped off.]

.....

AUSTIN TO THE COLONISTS

Colorado River House of Mr Castlemans

August 6 1823.

Fellow Citizens,

I have once more the pleasure of addressing you a few lines from the Colorado—... The titles to your land is indisputable—the original grant for this settlement was made by the Spanish Government before the Revolution, it was then confirmed and the quantity of land designated by the decree of the Emperor Agustin Iturbide on the 18th of February last, and the whole was again approved and confirmed by the Sovereign Congress of the Mexican Nation on the 14 of April last after the fall of the Emperor. The titles are made by me and the Commissioner of the Government, and are then perfect and complete for ever, and each settler may sell his land the same as he could do in the United States.

... I wish the settlers to remember that the Roman Catholic is the religion of this nation, I have taken measures to have *Father Miness* [Maynes] formerly of Nachitoches, appointed our Curate, he is a good man and acquainted with the Americans—we must all be particular on this subject and respect the Catholic religion with all that attention due to its sacredness and to the laws of the land.

I have so far paid all the expenses attending this enterprise out of my own funds... Those who have the means must pay me a little money on receipt of their titles; from those who have not money I will receive any kind of property that will not be a dead loss to me, such as horses, mules, cattle, hogs, peltry, Furs, bees wax, home made cloth, dressed deer skins, etc. Only a small part will be required in hand, for the balance I will wait one, two, and three years, according to the capacity of the person to pay—... I could exact the payment of all the expenses in hand before the titles are delivered, but shall not do so, the settlers may all rely on the terms above stated The smallest quantity of land a family will receive is one thousand yards square which may be increased by me and the Commissioner without limit in proportion to the size of the family.

Young men must join and take land in the name of one. All thus

united will be ranked as one family, they can then divide the land amongst themselves —

.....

Hoping to meet you soon in peace and happiness, I am Resptlly your friend and fellow citizen

STEPHEN F. AUSTIN [Rubric]

.....

TERMS OF SETTLEMENT

The terms on which Settlers are admitted into the Colony forming by Stephen F. Austin in the Province of Texas are as follows —

No one will be received as a Settler, or even be permitted to remain in the country longer than is absolutely necessary to prepare for a removal who does not produce the most unequivocal and satisfactory evidence of unblemished character, good Morals, Sobriety, and industrious habits, and he must also have sufficient property to begin with either as a farmer or mechanic besides paying for his land — No frontiersman who has no other occupation than that of a hunter will be received — no drunkard, nor Gambler, nor profane swearer no idler, nor any man against whom there is even probable grounds of suspicion that he is a bad man, or even has been considered a bad or disorderly man will be received. Those who are rejected on the grounds of bad character will be immediately ordered out of the County and if the order is not obeyed they will be sent off under guard and their property seized and sold to pay the expences, and should forcible resistance be made by them, the guard will be ordered to fire on and kill them —

Those who are received as Settlers will get one league of land if so much is wanted, to be chosen by the emigrant, which land will cost at the rate of twelve Dollars and fifty cents pr. hundred acres payable in cash or Spanish Cattle or negros on receipt of title, which will be in full for surveying, title deeds, recording, and all other charges.

The above only applies to men of families — Single men will be examined as to character more particularly than men of families and ten of them must unite to form a family and they will be entitled to one League of land to be divided between them. An exception will be made to this rule in favor of single men who bring a considerable capital into the country all such will be ranked as a family and draw one League —

A person who brings in a large capital and who has a large family will draw more than a league should he wish it. The head of each

family will be held personally responsible for the good conduct of every member of his family.

The Roman Catholic is the established religion of the Mexican nation and the law will not allow of any other in this Colony — October 30 1823 —

.....

AUSTIN TO MRS. JOSEPH H. HAWKINS

Brazos River Province of Texas April 20. 1824

DR MADAM,

.....

The affairs of this colony are prosperous and highly flattering — last year we were threatened with starvation, this year we have a superabundance of corn, so much so that it can be purchased for $37\frac{1}{2}$ cents per bushel — All goes on well — The Government of the Mexican nation has settled down on the Federal Republican System and our prospects are bright from every quarter — I think that my labors in these wild deserts will result advantageously to many of my fellow beings and that you and family will in the end be greatly benefited by them — at least such is the earnest wish of your sincere friend

STEPHEN F. AUSTIN.

108. THE LAND LAW OF 1820

The land act of 1820 reduced the smallest size of tract sold by the federal government to 80 acres, and set the lowest price at \$1.25 cash an acre.

Public Statutes at Large of the United States, vol. 3, pp. 566-567.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the first day of July next, all the public lands of the United States, the sale of which is, or may be authorized by law, shall, when offered at public sale, to the highest bidder, be offered in half quarter sections; and when offered at private sale, may be purchased, at the option of the purchaser, either in entire sections, half sections, quarter sections, or half quarter sections; and in every case of the division of a quarter section, the line for the division thereof shall run north and south, . .

SEC. 2. *And be it further enacted,* That credit shall not be allowed for the purchase money on the sale of any of the public lands

which shall be sold after the first day of July next, but every purchaser of land sold at public sale thereafter, shall, on the day of purchase, make complete payment therefor; ..

SEC. 3. *And be it further enacted*, That from and after the first day of July next, the price at which the public lands shall be offered for sale, shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder, who shall make payment as aforesaid, shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which shall have been offered at public sale before the first day of July next, and which shall then remain unsold, as well as the lands that shall thereafter be offered at public sale, according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry as aforesaid; ..

.....

SEC. 6. *And be it further enacted*, That, in every case hereafter, where two or more persons shall apply for the purchase, at private sale, of the same tract, at the same time, the register shall determine the preference, by forthwith offering the tract to the highest bidder.

APPROVED, April 24, 1820.

109. THE RUSSIAN UKASE

The following edict of September 7, 1821, by which the Russian government defined its claims on the American continent, was one of the causes leading up to the enunciation of the Monroe Doctrine.

American State Papers, Foreign Relations, Vol. 4, p. 857. Washington, 1834.

Edict of His Imperial Majesty, Autocrat of all the Russias.

THE Directing Senate maketh known unto all men:

Whereas, in an edict of His Imperial Majesty, issued to the Directing Senate on the 4th day of September, and signed by His Imperial Majesty's own hand, it is thus expressed:

"Observing, from reports submitted to us, that the trade of our subjects on the Aleutian islands, and on the northwest coast of America, appertaining unto Russia, is subjected, because of secret and illicit traffic, to oppression and impediments; and finding that the principal

cause of these difficulties is the want of rules establishing the boundaries for navigation along these coasts, and the order of naval communication, as well in these places as on the whole of the eastern coast of Siberia and the Kurile islands, we have deemed it necessary to determine these communications by specific regulations, which are hereto attached.

“In forwarding these regulations to the Directing Senate, we command that the same be published for universal information, and that the proper measures be taken to carry them into execution.”

COUNT D. GURIEF, *Minister of Finances.*

It is therefore decreed by the Directing Senate that His Imperial Majesty's edict be published for the information of all men, and that the same be obeyed by all whom it may concern.

[The original is signed by the Directing Senate.]

Printed at St. Petersburg. In the Senate, September 7, 1821.

[On the original is written, in the handwriting of His Imperial Majesty, thus:]

Be it accordingly.

ALEXANDER.

KAMENNOY OSTROFF, *September 4, 1821.*

Rules established for the limits of navigation and order of communication along the coast of the Eastern Siberia, the northwestern coast of America, and the Aleutian, Kurile, and other islands.

SEC. 1. The pursuits of commerce, whaling, and fishery, and of all other industry, on all islands, ports, and gulfs, including the whole of the northwest coast of America, beginning from Bhering's strait to the fifty-first degree of northern latitude, also from the Aleutian islands to the eastern coast of Siberia, as well as along the Kurile islands from Bhering's strait to the south cape of the island of Urup, viz: to 45° 50' northern latitude, are exclusively granted to Russian subjects.

SEC. 2. It is therefore prohibited to all foreign vessels not only to land on the coasts and islands belonging to Russia, as stated above, but also to approach them within less than a hundred Italian miles. The transgressor's vessel is subject to confiscation, along with the whole cargo.

SEC. 3. An exception to this rule is to be made in favor of vessels carried thither by heavy gales, or real want of provisions, and unable

to make any other shores but such as belong to Russia; in these cases, they are obliged to produce convincing proofs of actual reason for such an exception. Ships of friendly Governments, merely on discoveries, are likewise exempt from the foregoing rule, (section 2.) In this case, however, they must previously be provided with passports from the Russian Minister of the Navy...

110. GEORGE CANNING AND THE MONROE DOCTRINE

The following communication from the British Minister to the American Minister at London is one of the steps in the evolution of the Monroe Doctrine. Refer to Washington's farewell address No. 72 for a much earlier enunciation of the principle involved.

Proceedings of the Massachusetts' Historical Society, *Second Series*, Vol. 15, pp. 415-417. Boston, 1902.

Private and confidential.

FOREIGN OFFICE, Aug. 20, 1823.

MY DEAR SIR, — Before leaving Town I am desirous of bringing before you in a more distinct, but still in an unofficial and confidential shape, the question which we shortly discussed the last time that I had the pleasure of seeing you.

Is not the moment come when our Governments might understand each other as to the Spanish American Colonies? And if we can arrive at such an understanding, would it not be expedient for ourselves, and beneficial for all the world, that the principles of it should be clearly settled and plainly avowed?

For ourselves we have no disguise.

1. We conceive the recovery of the Colonies by Spain to be hopeless.
2. We conceive the question of the recognition of them, as Independent States, to be one of time and circumstances.
3. We are, however, by no means disposed to throw any impediment in the way of an arrangement between them and the mother country by amicable negotiations.
4. We aim not at the possession of any portion of them ourselves.
5. We could not see any portion of them transferred to any other Power, with indifference.

If these opinions and feelings are as I firmly believe them to be, common to your Government with ours, why should we hesitate mutually to confide them to each other; and to declare them in the face of the world?

If there be any European Power which cherishes other projects,

which looks to a forcible enterprize for reducing the colonies to subjugation, on the behalf or in the name of Spain; or which meditates the acquisition of any part of them to itself, by cession or by conquest; such a declaration on the part of your government and ours would be at once the most effectual and the least offensive mode of intimating our joint disapprobation of such projects.

It would at the same time put an end to all the jealousies of Spain with respect to her remaining Colonies, and to agitation which prevails in those Colonies, an agitation which it would be but humane to allay; being determined (as we are) not to profit by encouraging it.

Do you conceive that under the power which you have recently received, you are authorized to enter into negotiation and to sign any Convention upon this subject? Do you conceive, if that be not within your competence, you could exchange with me ministerial notes upon it?

Nothing could be more gratifying to me than to join with you in such a work, and, I am persuaded, there has seldom, in the history of the world, occurred an opportunity when so small an effort of two friendly Governments might produce so unequivocal a good and prevent such extensive calamities.

I shall be absent from London but three weeks at the utmost; but never so far distant but that I can receive and reply to any communication within three or four days.

I have the honor to be

My Dear Sir, with great respect and esteem

Your obedient and faithful servant

R. RUSH, Esqr.

(Signed) GEORGE CANNING

(Enclosure with Mr. Rush's No. 326, August 28, 1823.)

GEORGE CANNING TO RICHARD RUSH

Private and confidential.

LIVERPOOL, August 23, 1823.

MY DEAR SIR, — Since I wrote to you on the 20th, an additional motive has occurred for wishing that we might be able to come to some understanding on the part of our respective Governments on the subject of my letter; to come to it soon, and to be at liberty to announce it to the world.

It is this. I have received notice, but not such a notice as imposes upon me the necessity of any immediate answer or proceeding — that so soon as the military objects in Spain are achieved (of which the French expect, how justly I know not, a very speedy achievement) a

proposal will be made for a Congress, or some less formal concert and consultation, specially upon the affairs of Spanish America.

I need not point out to you all the complications to which this proposal, however dealt with by us, may lead.

Pray receive this communication in the same confidence with the former; and believe me with great truth

My Dear Sir, and esteem,

Your obedient and faithful servant,

R. RUSH, Esqr.

(Signed) GEO. CANNING.

111. THOMAS JEFFERSON'S OPINION OF CANNING'S PROPOSAL,
1823

A further step in the evolution of the Monroe Doctrine.

Ford, *The Writings of Thomas Jefferson, 1816-1826, Vol. 10,*
pp. 277-279.

TO JAMES MONROE

MONTICELLO, October 24, 1823.

DEAR SIR, — The question presented by the letters you have sent me, is the most momentous which has ever been offered to my contemplation since that of Independence. That made us a nation, this sets our compass and points the course which we are to steer through the ocean of time opening on us. And never could we embark on it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cis-Atlantic affairs. America, North and South, has a set of interests distinct from those of Europe, and peculiarly her own. . . One nation, most of all, could disturb us in this pursuit; she now offers to lead, aid, and accompany us in it. By acceding to her proposition, we detach her from the bands, bring her mighty weight into the scale of free government, and emancipate a continent at one stroke, which might otherwise linger long in doubt and difficulty. Great Britain is the nation which can do us the most harm of any one, or all on earth; and with her on our side we need not fear the whole world. With her then, we should most sedulously cherish a cordial friendship; and nothing would tend more to knit our affections than to be fighting once more, side by side, in the same cause. Not that I would purchase even her amity at the price of taking part in her wars. But the war in which the present proposition might engage us, should that be its consequence, is not her war, but ours. Its object is to introduce and establish the American system, of keeping

out of our land all foreign powers, of never permitting those of Europe to intermeddle with the affairs of our nations. . . But I am clearly of Mr. Canning's opinion, that it will prevent instead of provoking war . . . all Europe combined would not undertake such a war. For how would they propose to get at either enemy without superior fleets? Nor is the occasion to be slighted which this proposition offers, of declaring our protest against the atrocious violations of the rights of nations, by the interference of any one in the internal affairs of another, so flagitiously begun by Bonaparte, and now continued by the equally lawless Alliance, calling itself Holy.

But we have first to ask ourselves a question. Do we wish to acquire to our own confederacy any one or more of the Spanish provinces? I candidly confess, that I have ever looked on Cuba as the most interesting addition which could ever be made to our system of states. . . Yet, as I am sensible that this can never be obtained, . . but by war; and its independence . . can be secured without it, I have no hesitation in abandoning my first wish . . and accepting its independence, with peace and the friendship of England, rather than its association, at the expense of war and her enmity.

I could honestly, therefore, join in the declaration proposed, that we aim not at the acquisition of any of those possessions, that we will not stand in the way of any amicable arrangement between them and the mother country; but that we will oppose, with all our means, the forcible interposition of any other power, as auxiliary, stipendiary, or under any other form or pretext, and most especially, their transfer to any power by conquest, cession, or acquisition in any other way. I should think it, therefore, advisable, that the Executive should encourage the British government to a continuance in the dispositions expressed in these letters, by an assurance of his concurrence with them as far as his authority goes; . .

112. THE MONROE DOCTRINE

The following selection covers the paragraphs from Monroe's message of December 2, 1823, which state in its classical form the so-called Monroe Doctrine. Actually the Doctrine is much older. It was stated, as we have already seen, in Washington's farewell address No. 72 and extracts Nos. 109, 110, 112 define the steps immediately leading up to it.

*Richardson, Messages and Papers of the Presidents, 1789-1897.
Vol. 2, pp. 209, 217-219.*

AT the proposal of the Russian Imperial Government, made through the minister of the Emperor residing here, a full power and instructions have been transmitted to the minister of the United States at St. Petersburg to arrange by amicable negotiation the respective rights and interests of the two nations on the northwest coast of this continent. A similar proposal had been made by His Imperial Majesty to the Government of Great Britain, which has likewise been acceded to. The Government of the United States has been desirous by this friendly proceeding of manifesting the great value which they have invariably attached to the friendship of the Emperor and their solicitude to cultivate the best understanding with his Government. In the discussions to which this interest has given rise and in the arrangements by which they may terminate the occasion has been judged proper for asserting, as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European powers.

.....

A strong hope has been long entertained, founded on the heroic struggle of the Greeks, that they would succeed in their contest and resume their equal station among the nations of the earth. It is believed that the whole civilized world take a deep interest in their welfare. Although no power has declared in their favor, yet none, according to our information, has taken part against them. Their cause and their name have protected them from dangers which might ere this have overwhelmed any other people. The ordinary calculations of interest and of acquisition with a view to aggrandizement, which mingles so much in the transactions of nations, seem to have had no effect in regard to them. From the facts which have come to our knowledge there is good cause to believe that their enemy has lost forever all dominion over them; that Greece will become again an independent nation. That she may obtain that rank is the object of our most ardent wishes.

It was stated at the commencement of the last session that a great effort was then making in Spain and Portugal to improve the condition of the people of those countries, and that it appeared to be conducted with extraordinary moderation. It need scarcely be remarked that the result has been so far very different from what was then anticipated. Of events in that quarter of the globe, with which we have so much intercourse and from which we derive our origin, we have always been anxious and interested spectators. The citizens of the United States

cherish sentiments the most friendly in favor of the liberty and happiness of their fellow-men on that side of the Atlantic. In the wars of the European powers in matters relating to themselves we have never taken any part, nor does it comport with our policy so to do. It is only when our rights are invaded or seriously menaced that we resent injuries or make preparation for our defense. With the movements in this hemisphere we are of necessity more immediately connected, and by causes which must be obvious to all enlightened and impartial observers. The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective Governments; and to the defense of our own, which has been achieved by the loss of so much blood and treasure, and matured by the wisdom of their most enlightened citizens, and under which we have enjoyed unexampled felicity, this whole nation is devoted. We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power we have not interfered and shall not interfere. But with the Governments who have declared their independence and maintained it, and whose independence we have, on great consideration and on just principles, acknowledged, we could not view any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, by any European power in any other light than as the manifestation of an unfriendly disposition toward the United States. In the war between those new Governments and Spain we declared our neutrality at the time of their recognition, and to this we have adhered, and shall continue to adhere, provided no change shall occur which, in the judgment of the competent authorities of this Government, shall make a corresponding change on the part of the United States indispensable to their security.

The late events in Spain and Portugal shew that Europe is still unsettled. Of this important fact no stronger proof can be adduced than that the allied powers should have thought it proper, on any principle satisfactory to themselves, to have interposed by force in the internal concerns of Spain. To what extent such interposition may be carried, on the same principle, is a question in which all independent powers whose governments differ from theirs are interested, even those most remote, and surely none more so than the United States. Our policy in regard to Europe, which was adopted at an early stage of the wars which have so long agitated that quarter of the globe, nevertheless remains

the same, which is, not to interfere in the internal concerns of any of its powers; to consider the government *de facto* as the legitimate government for us; to cultivate friendly relations with it, and to preserve those relations by a frank, firm, and manly policy, meeting in all instances the just claims of every power, submitting to injuries from none. But in regard to those continents circumstances are eminently and conspicuously different. It is impossible that the allied powers should extend their political system to any portion of either continent without endangering our peace and happiness; nor can anyone believe that our southern brethren, if left to themselves, would adopt it of their own accord. It is equally impossible, therefore, that we should behold such interposition in any form with indifference. If we look to the comparative strength and resources of Spain and those new Governments, and their distance from each other, it must be obvious that she can never subdue them. It is still the true policy of the United States to leave the parties to themselves, in the hope that other powers will pursue the same course.

113. THE RUSSIAN TREATY

Compare with the Russian Ukase No. 109 and Monroe's Message No. 112. Note how it and the Florida Treaty cleared away titles conflicting with that of the United States to Oregon. It was proclaimed January 12, 1825.

Public Statutes at Large of the United States, Vol. 8, pp. 302-304.

Convention Between the United States of America and Russia.

ARTICLE FIRST.

IT is agreed, that, in any part of the . . . Pacific Ocean, . . . the respective citizens or subjects of the high contracting powers shall be neither disturbed nor restrained, either in navigation or in fishing, or in . . . resorting to the coasts, upon points which may not already have been occupied, for the purpose of trading with the natives, saving always the restrictions and conditions determined by the following articles:

ARTICLE SECOND.

With the view of preventing the rights of navigation and of fishing, . . . from becoming the pretext for an illicit trade, it is agreed that the citizens of the United States shall not resort to any point where

there is a Russian establishment, without the permission of the governor or commander; and that, reciprocally, the subjects of Russia shall not resort, without permission, to any establishment of the United States upon the North West Coast.

ARTICLE THIRD.

It is moreover agreed, that, hereafter, there shall not be formed by the citizens of the United States, or under the authority of the said States, any establishment upon the Northwest Coast of America, nor in any of the islands adjacent, *to the north* of fifty four degrees and forty minutes of north latitude; and that, in the same manner, there shall be none formed by Russian subjects, or under the authority of Russia, *south* of the same parallel. . .

Done at St. Petersburg, the $\frac{17}{5}$ April, of the year of Grace one thousand eight hundred and twenty-four.

	HENRY MIDDLETON,	(L.S.)
Le Comte	CHARLES NESSELRODE,	(L.S.)
	PIERRE DE POLETICA,	(L.S.)

114. THE PANAMA CONGRESS

The Congress at Panama was intended to be a step toward closer coöperation between the nations of the American continent. The note quoted below was designed to overcome the hesitation of the United States at committing herself unreservedly to the deliberations of the Congress. Actually she never participated.

American State Papers, Foreign Relations, Vol. 5, pp. 836-837.

Mr. Salazar to the Secretary of State.
[Translation.]

Legation of Colombia, Near the United States of North America,

Washington, November 2, 1825.

THE undersigned has the honor to communicate to the Hon. Henry Clay, for the information of his government and the attainment of the objects proposed, that the assembly of American plenipotentiaries, in relation to which the minister from Mexico and the undersigned have held some verbal conferences with the Secretary of State, at their previous request, will shortly be organized; . .

The honorable Secretary having intimated, in the name of his Government, that the United States, if formally invited by Mexico and Colombia, and apprised of the subjects to be discussed, would, on their part, appoint a person to represent them, if these subjects should be approved by the United States, the undersigned is accordingly authorized by his Government to address this invitation which he now makes by this note in all due form. . .

Of the points which will be under discussion by the Assembly of Panama the undersigned is unable to give a minute enumeration, as they will evidently arise out of the deliberations of the Congress. He is, however, authorized by his Government to assure the United States that these points have no tendency to violate their professed principles of neutrality. The undersigned has also been instructed to suggest some subjects that will form useful matter of discussion in the Congress.

These subjects constitute two classes:

- 1st. Matters peculiarly and exclusively concerning the belligerents;
- 2d. Matters between the belligerents and neutrals.

As the United States will not take part in the discussion of subjects of the first description, we will confine ourselves to the latter.

At Panama, the best and most opportune occasion is offered to the United States to fix some principles of international law, the unsettled state of which has caused much evil to humanity. . . It belongs to each of the concurring parties to propose their views, but the voice of the United States will be heard with the respect and deference which its early labors in a work of such importance will merit.

The manner in which all colonization of European powers on the American continent shall be resisted, and their interference in the present contest between Spain and her former colonies prevented, are other points of great interest. Were it proper, an eventual alliance, in case these events should occur, which is within the range of possibilities, and the treaty, of which no use should be made until the *casus foederis* should happen to remain secret; or, if this should seem premature, a convention so anticipated would be different means to secure the same end of preventing foreign influence. This is a matter of immediate utility to the American States that are at war with Spain, and is in accordance with the repeated declarations and protests of the cabinet at Washington. . .

The consideration of the means to be adopted for the entire abolition of the African slave trade is a subject sacred to humanity and interesting to the policy of the American States. . .

The descendants of this portion of the globe have succeeded in founding an independent Republic, whose Government is now recog-

nized by its ancient metropolis. On what basis the relations of Hayti, and of other parts of our hemisphere that shall hereafter be in like circumstances, are to be placed, is a question simple at first view, but attended with serious difficulties when closely examined. . . This question will be determined at the Isthmus, and, if possible, a uniform rule of conduct adopted in regard to it. . .

The undersigned merely makes these suggestions by way of example; . . Inviting the United States, in the name of Colombia, to a Congress, the mere assembling of which will increase the political importance of America, and show the facility with which she can combine her resources in defence of common rights when necessary, the undersigned hopes that the United States will make an early appointment of a person or persons to represent them in this Assembly, as the conditions that were required have been fulfilled.

The undersigned has the honor to offer to the Hon. Henry Clay his most distinguished consideration.

JOSÉ MARIA SALAZAR.

115. THE NEW YORK PENAL SYSTEM

The New York State Prison at Auburn was regarded by the nineteenth century humanitarians as one of the landmarks in progress to prison reform.

Annual Report of the Board of Managers of the Prison Discipline Society, Boston, *June 2, 1826, pp. 36-38. Boston, 1827.*

AT Auburn, we have a more beautiful example still of what may be done by proper discipline, in a Prison well constructed. It is not possible to describe the pleasure which we feel in contemplating this noble institution, after wading through the fraud, and material and moral filth of many Prisons. We regard it as a model worthy of the world's imitation. We do not mean that there is nothing in this institution which admits of improvement; for there have been a few cases of unjustifiable severity in punishment; but, on the whole, the institution is immensely elevated above the old Penitentiaries.

The whole establishment from the gate to the sewer is a specimen of neatness. The unremitted industry, the entire subordination and subdued feeling of the convicts, has probably no parallel among an equal number of criminals. In their solitary cells, they spend the night, with no other book but the Bible; and at sunrise, they proceed in military order, under the eye of the turnkeys, in solid columns, with the lock march, to their workshops; thence in the same order, at the hour

of breakfast, to the common hall, where they partake of their wholesome and frugal meal in silence. Not even a whisper is heard; though the silence is such that a whisper might be heard through the whole apartment. The convicts are seated in single file, at narrow tables, with their backs towards the centre, so that there can be no interchange of signs. If one has more food than he wants, he raises his left hand; and if another has less, he raises his right hand, and the waiter changes it. When they have done eating, at the ringing of a little bell, of the softest sound, they rise from the table, form the solid columns, and return under the eye of their turnkeys to the workshops. From one end of the shops to the other, it is the testimony of many witnesses, that they have passed more than three hundred convicts without seeing one leave his work, or turn his head to gaze at them. There is the most perfect attention to business from morning till night, interrupted only by the time necessary to dine; and never by the fact that the whole body of prisoners have done their tasks, and the time is now their own, and they can do what they please. At the close of the day, a little before sunset, the work is all laid aside at once, and the convicts return in military order to the solitary cells, where they partake of the frugal meal, which they were permitted to take from the kitchen, where it was furnished for them, as they returned from the shops. After supper, they can, if they choose, read the scriptures undisturbed, and then reflect in silence on the errors of their lives. They must not disturb their fellow prisoners by even a whisper. The feelings which the convicts exhibit to their religious teacher, as he passes from one cell to another, are *generally* subdued feelings. Sometimes, however, a man is found who hardens his heart, and exhibits his obduracy even here; but the cases are comparatively few. The want of decorum, of which the commissioners of the State of New York complain, in their visit to the city Prison, where they were met by the bold staring of the prisoners after they left their work to gaze at them, and by looks, whether in smiles or in frowns, which indicated an unsubdued and audacious spirit in the culprits; this is never seen at Auburn. The men attend to their business from the rising to the setting sun, and spend the night in solitude.

Under these circumstances they are provided with the word of God, by a law of the State, which requires that every cell shall be supplied with a Bible or a Testament. They also receive the undivided attention of a most wise and faithful religious teacher, who spends all his time in the Prison, visiting the sick, teaching those who cannot read, preaching in the chapel, on the Sabbath, the unsearchable riches of Christ, and afterwards in going from cell to cell, to administer the reproofs and consolations of religion to individuals. The influence of the chap-

lain, according to the testimony of all the officers, is most salutary and powerful, and the various expressions of confidence and affection, exhibited towards him by the convicts, is most cheering to himself.

These great ends are gained, partly by discipline, and partly by construction.

The peculiarities of the discipline are, that the men, by a military movement, are required to keep the same relative position; as a general thing, they are placed back to face; and they are forbidden all conversation with each other.

116. THE SOUTH CAROLINA EXPOSITION AND PROTEST OF 1828

This document was the work of John C. Calhoun. He stated the grievances of the planting states, demonstrated that the tariff impoverished them to enrich the manufacturers of the north, and sought to point out in nullification a constitutional remedy short of the dissolution of the union which radical southerners were beginning to demand.

Works of Calhoun, Vol. 6, pp. 3-57. New York, 1856.

The Special Committee to whom the above Resolution was referred, beg leave to Report the following Exposition and Protest —

THE committee have bestowed on the subjects referred to them the deliberate attention which their importance demands; and the result, on full investigations, is a unanimous opinion that the act of Congress of the last session, with the whole system of legislation imposing duties on imports, — not for revenue, but for the protection of one branch of industry at the expense of others, — is unconstitutional, unequal, and oppressive, and calculated to corrupt the public virtue and destroy the liberty of the country; which propositions they propose to consider in the order stated, and then to conclude their report with the consideration of the important question of the remedy.

The committee do not propose to enter into an elaborate or refined argument on the question of the constitutionality of the Tariff system. The General Government is one of specific powers, and it can rightfully exercise only the powers expressly granted, and those that may be necessary and proper to carry them into effect, . . It results, necessarily, that those who claim to exercise power under the Constitution, are bound to show that it is expressly granted, . . The advocates of the Tariff have offered no such proof. It is true that the third section of the first article of the Constitution authorizes Congress to lay and collect an impost duty, but it is granted as a tax power for the sole purpose

of revenue, — a power in its nature essentially different from that of imposing protective or prohibitory duties. Their objects are incompatible...

.....

So partial are the effects of the system, that its burdens are exclusively on one side and its benefits on the other. It imposes on the agricultural interest of the South, including the South-west, and that portion of the country particularly engaged in commerce and navigation, the burden not only of sustaining the system itself, but that also of the Government...

If the duties were imposed on the exports instead of the imports, no one would doubt their partial operation, .. and as rice, tobacco, and cotton, constitute the great mass of our exports, such duties would, of necessity, mainly fall on the Southern States, where they are exclusively cultivated. To prove, then, that the burden of the Tariff falls also on them almost exclusively, it is only necessary to show that, as far as their interest is concerned, there is little or no difference between an export and an import duty. We export to import. The object is an exchange of the fruits of our labor for those of other countries... A duty, whether it be on the imports or exports, must fall on this exchange; and, however laid, must, in reality, be paid by the producer of the articles exchanged. . . Nor is it material whether the exchange be barter or sale, direct or circuitous. In any case it must fall on the producer. . . Let us now trace the operation of the system in some of its prominent details, in order to understand, with greater precision, the extent of the burden it imposes on us, .. The exports of domestic produce, in round numbers, may be estimated as averaging \$53,000,000 annually; of which the States growing cotton, rice, and tobacco, produce about \$37,000,000... the exports of the Southern or staple States, and other States, will stand as \$37,000,000 to \$16,000,000, — or considerably more than the proportion of two to one; while their population, estimated in federal numbers, is the reverse; the former sending to the House of Representatives but 76 members, and the latter 137. It follows that about one third of the Union exports more than two thirds of the domestic products. Such, then, is the amount of labor which our country annually exchanges with the rest of the world, — and such our proportion. The Government is supported almost exclusively by a tax on this exchange, in the shape of an impost duty, and which amounts annually to about \$23,000,000, .. Previous to the passage of the act of the last session, this tax averaged about 37½ per cent. on the value of imports. What addition that has made, it is difficult, with the present

data, to estimate with precision; but it may be assumed, on a very moderate calculation, to be $7\frac{1}{2}$ per cent.,—thus making the present duty to average at least 45 per cent., which, on \$37,000,000, the amount of our share of the exports, will give the sum of \$16,650,000, as our share of the contribution to the general Treasury.

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On the great and vital point—the industry of the country—which comprehends almost every interest—the interest of the two great sections is opposed. . . That our industry is controlled by many, instead of one,—by a majority in Congress, *elected* by a majority in the community having an opposing interest, instead of by *hereditary* rulers,—forms not the slightest mitigation of the evil. . . Laws, so far from being uniform in the operation, are scarcely ever so. . . The essence of liberty comprehends the idea of responsible power. . . To prevent rulers from abusing their trusts, constituents must control them through elections; and to prevent the major from oppressing the minor interests of society, the Constitution must provide (as the committee hope to prove it does) a check, founded on the same principle and equally efficacious. In fact, the abuse of delegated power, and the tyranny of the stronger over the weaker interests, are the two dangers, and the only two to be guarded against; and if this be done effectually, liberty must be eternal. Of the two, the latter is the greater and most difficult to resist. . . No government, based on the naked principle that the majority ought to govern, however true the maxim in its proper sense, and under proper restrictions, can preserve its liberty even for a single generation. . . May we . . . restore the almost lost virtue and patriotism of the Republic, by giving due efficiency, in practice, to the check which our Constitution has provided against a danger so threatening, . .

The committee has demonstrated that the present disordered state of our political system originated in the diversity of interests which exists in the country;—a diversity recognized by the Constitution itself, and to which it owes one of its most distinguished and peculiar features, . . the division of the delegated powers between the State and General Governments. . . In drawing the line between the powers of the two—the General and State Governments—the great difficulty consisted in determining correctly to which of the two the various political powers ought to belong. This difficult task was, however, performed with so much success that, to this day, there is an almost entire acquiescence in the correctness with which the line was drawn. It would be extraordinary if a system, thus resting with such profound wisdom

on the diversity of geographical interests among the States, should make no provision against the dangers to which its very basis might be exposed. . . The framers of our Constitution have not exposed themselves to the imputation of such weakness. When their work is fairly examined, it will be found that they have provided, with admirable skill, the most effective remedy; . . The powers of the General Government are particularly enumerated and specifically delegated; and all powers not expressly delegated, or which are not necessary and proper to carry into effect those that are so granted, are reserved expressly to the States or the people. . .

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In order to have a full and clear conception of our institutions, it will be proper to remark that there is, in our system, a striking distinction between *Government* and *Sovereignty*. The separate governments of the several States are vested in their Legislative, Executive, and Judicial Departments; while the sovereignty resides in the people of the States respectively. The powers of the General Government are also vested in its Legislative, Executive, and Judicial Departments, while the Sovereignty resides in the people of the several States who created it. But, by an express provision of the Constitution, it may be amended or changed by three fourths of the States; and thus each State, by assenting to the Constitution with this provision, has modified its original right as a sovereign, of making its individual consent necessary to any change in its political condition; and, by becoming a member of the Union, has placed this important power in the hands of three fourths of the States, — in whom the highest power known to the Constitution actually resides. Not the least portion of this high sovereign authority resides in Congress, or any of the departments of the General Government. . .

. . . Looking to facts, the Constitution has formed the States into a community only to the extent of their common interests; leaving them distinct and independent communities as to all other interests, and drawing the line of separation with consummate skill, as before stated. It is manifest that, so long as this beautiful theory is adhered to in practice, the system, like the atmosphere, will press equally on all the parts. But reason and experience teach us that theory of itself, however excellent, is nugatory, unless there be means of efficiently enforcing it in practice; — which brings under consideration the highly important question, — What means are provided by the system for enforcing this fundamental provision?

. If we look to the history and practical operation of the system, we

shall find, on the side of the States, no means resorted to in order to protect their reserved rights against the encroachments of the General Government; while the latter has, from the beginning, adopted the most efficient to prevent the States from encroaching on those delegated to them. The 25th section of the Judiciary Act, passed in 1789, — immediately after the Constitution went into operation, — provides for an appeal from the State courts to the Supreme Court of the United States in all cases, in the decision of which, the construction of the Constitution, — the laws of Congress, or treaties of the United States may be involved; . . . A more ample and complete protection against the encroachments of the governments of the several States cannot be imagined; and to this extent the power may be considered as indispensable and constitutional. But, by a strange misconception of the nature of our system, — and, in fact, of the nature of government, — it has been regarded as . . . the only means provided by the Constitution of confining all the powers of the system to their proper constitutional spheres; and, consequently, of determining the limits assigned to each. Such a construction of its powers would, in fact, raise one of the departments of the General Government above the parties who created the constitutional compact, and virtually invest it with the authority to alter, at its pleasure, the relative powers of the General and State Governments, on the distribution of which, as established by the Constitution, our whole system rests; — and which, by an express provision of the instrument, can only be altered by three fourths of the States, as has already been shown. It would go farther. Fairly considered, it would, in effect, divest the people of the States of the sovereign authority, and clothe that department with the robe of supreme power. . .

As a substitute for the rightful remedy, in the last resort, against the encroachments of the General Government on the reserved powers, resort has been had to a rigid construction of the Constitution. . . Universal experience, in all ages and countries, however, teaches that power can only be restrained by power, and not by reason and justice; and that all restrictions on authority, unsustained by an equal antagonist power, must for ever prove wholly inefficient in practice. . . In fact, the power of construction, on which its advocates relied to preserve the rights of the States, has been wielded, as it ever must be, if not checked, to destroy those rights. . . But that protection, which the minor interests must ever fail to find in any technical system of construction, may be found in the reserved rights of the States themselves, if they be properly called into action; and there only will they ever be found of sufficient efficacy. . .

If it be conceded, . . . that the sovereign powers delegated are divided

between the General and State Governments, and that the latter hold their portion by the same tenure as the former, it would seem impossible to deny to the States the right of deciding on the infractions of their powers, and the proper remedy to be applied for their correction. The right of judging, in such cases, is an essential attribute of sovereignty. . . In fact, to divide power, and to give to one of the parties the exclusive right of judging of the portion allotted to each, is, in reality, not to divide it at all; and to reserve such exclusive right to the General Government (it matters not by what department to be exercised), is to convert it, in fact, into a great consolidated government, with unlimited powers, and to divest the States, in reality, of all their rights. . . But the existence of the right of judging of their powers, so clearly established from the sovereignty of States, as clearly implies a veto or control, within its limits, on the action of the General Government, on contested points of authority; and this very control is the remedy which the Constitution has provided to prevent the encroachments of the General Government on the reserved rights of the States; and by which the distribution of power, between the General and State Governments may be preserved for ever inviolable, on the basis established by the Constitution. It is thus effectual protection is afforded to the minority, against the oppression of the majority. Nor does this important conclusion stand on the deduction of reason alone. It is sustained by the highest contemporary authority. . .

To these authorities, which so explicitly affirm the right of the States, in their sovereign capacity, to decide, in the last resort, on the infraction of their rights and the remedy, there may be added the solemn decisions of the Legislatures of two leading States — Virginia and Kentucky — that the power in question rightfully belongs to the States. . .

The committee have thus arrived, by what they deem conclusive reasoning, and the highest authority, at the constitutional and appropriate remedy against the unconstitutional oppression under which this, in common with the other staple States, labors. . . ; — and this brings them to the inquiry, — How is the remedy to be applied by the States? . . Whatever doubts may be raised as to the question, — whether the respective Legislatures fully represent the sovereignty of the States for this high purpose, there can be none as to the fact that a Convention fully represents them for all purposes whatever. . . When convened, it will belong to the Convention itself to determine, authoritatively, whether the acts of which we complain be unconstitutional; and, if so, whether they constitute a violation so deliberate, palpable, and dangerous, as to justify the interposition of the State to protect its rights. If

this question be decided in the affirmative, the Convention will then determine in what manner they ought to be declared null and void within the limits of the State; which solemn declaration, based on her rights as a member of the Union, would be obligatory, not only on her own citizens, but on the General Government itself; and thus place the violated rights of the State under the shield of the Constitution.

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Admit, then, the power in question to belong to the States, — and admit its liability to abuse, — and what are the utmost consequences, but to create a presumption against the constitutionality of the power exercised by the General Government, — which, if it be well founded, must compel them to abandon it; — or, if not, to remove the difficulty by obtaining the contested power in the form of an amendment to the Constitution. If, on an appeal for this purpose, the decision be favorable to the General Government, a disputed power will be converted into an expressly granted power; — but, on the other hand, if it be adverse, the refusal to grant will be tantamount to an inhibition of its exercise: and thus, in either case, the controversy will be determined. . . . On the contrary, giving the right to a State to compel the General Government to abandon its pretensions to a constructive power, or to obtain a positive grant of it, by an amendment to the Constitution, would call efficiently into action, on all important disputed questions, this highest power of the system, — to whose controlling authority no one can object, and under whose operation all controversies between the States and General Government would be adjusted, and the Constitution gradually acquire all the perfection of which it is susceptible. . . .

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... Thus the necessity of government and of checks originates in the same great principle of our nature; and thus the very selfishness which impels those who have power to desire more, will also, with equal force, impel those on whom power operates to resist aggression; and on the balance of these opposing tendencies, liberty and happiness must for ever depend. This great principle guided in the formation of every part of our political system. There is not one opposing interest throughout the whole that is not counterpoised. . . . May the General Government, . . . encroach on the rights reserved to the States respectively? To the States respectively — each in its sovereign capacity — is reserved the power, by its veto, or right of interposition, to arrest the encroachment. And, finally, may this power be abused by a State, so as to inter-

fere improperly with the powers delegated to the General Government? There is provided a power, even over the Constitution itself, vested in three fourths of the States, which Congress has the authority to invoke, and may terminate all controversies in reference to the subject, by granting or withholding the right in contest. Its authority is acknowledged by all; and to deny or resist it, would be, on the part of the State, a violation of the constitutional compact, and a dissolution of the political association, as far as it is concerned. This is the ultimate and highest power, — and the basis on which the whole system rests.

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117. THE INAUGURATION OF JACKSON

The ebullient tide of popular belief in its ownership of President and White House alike, is one of the surface characteristics of Jacksonian democracy.

From James Parton, Life of Andrew Jackson, Vol. 3, pp. 169–171. New York, 1860.

THE day of the inauguration was one of the brightest and balmiest of the spring. An eye-witness shall describe to us the memorable scene:

“No one who was at Washington at the time of General Jackson’s inauguration is likely to forget that period to the day of his death. To us, who had witnessed the quiet and orderly period of the Adams’ administration, it seemed as if half the nation had rushed at once into the Capital. It was like the inundation of the northern barbarians into Rome, save that the tumultuous tide came in from a different point of the compass. The West and the South seemed to have precipitated themselves upon the North and overwhelmed it. . . It appeared to me that every Jackson editor in the country was on the spot. They swarmed, especially in the lobbies of the House, an expectant host, a sort of Praetorian band, which, having borne in upon their shields their idolized leader, claimed the reward of the hard-fought contest. . . On the morning of the inauguration, the vicinity of the Capitol was like a great agitated sea; every avenue to the fateful spot was blocked up with people, . . Never can I forget the spectacle which presented itself on every side, nor the electrifying moment when the eager, expectant eyes of that vast and motley multitude caught sight of the tall and imposing form of their adored leader, as he came forth between the columns of the portico, the color of the whole mass changed, as if by miracle; all hats were off at once, and the dark tint which usually pervades a mixed map of men was turned, as by a magic wand, into

the bright hue of ten thousand upturned and exultant human faces, radiant with sudden joy. The peal of shouting that arose rent the air, and seemed to shake the very ground. But when the Chief Justice took his place and commenced the brief ceremony of administering the oath of office, it quickly sank into comparative silence; and as the new President proceeded to read his inaugural address, the stillness gradually increased; but all efforts to hear him, beyond a brief space immediately around, were utterly vain."

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The ceremony over, the President drove from the Capitol to the White House, followed soon by a great part of the crowd who had witnessed the inauguration... A letter writer said: "A profusion of refreshments had been provided. Orange punch by barrels full was made, but as the waiters opened the door to bring it out, a rush would be made, the glasses broken, the pails of liquor upset, and the most painful confusion prevailed. To such a painful degree was this carried, that wine and ice-creams could not be brought out to the ladies, and tubs of punch were taken from the lower story into the garden, to lead off the crowd from the rooms. On such an occasion it was certainly difficult to keep any thing like order, but it was mortifying to see men, with boots heavy with mud, standing on the damask satin covered chairs, from their eagerness to get a sight of the President."

118. THE POOR AND EDUCATION

With the movement toward manhood suffrage and participation in government came an extended interest in education for the lower orders. The following report of a working men's committee in Philadelphia is but a single instance of the movement.

Working man's Advocate, March 6, 1830.

REPORT of the Joint Committees of the City and County of Philadelphia, appointed September, 1829, to ascertain the state of public instruction in Pennsylvania, and to digest and propose such improvements in education as may be deemed essential to the intellectual and moral prosperity of the people...

After devoting all the attention to the subject, and making every enquiry which their little leisure and ability would permit, they are forced into the conviction, that there is great defect in the educational system of Pennsylvania; ..

With the exception of this city and county, the city and incorporated borough of Lancaster, and the city of Pittsburgh, erected into "school districts" since 1818, it appears that the entire state is destitute of any provisions for public instruction, except those furnished by the enactment of 1809. This law requires the assessors of the several counties to ascertain and return the number of children whose parents are unable, through poverty, to educate them; and such children are permitted to be instructed at the most convenient schools at the expense of their respective counties.

The provisions of this act, however, are incomplete and frequently inoperative. . . The funds appropriated by the act, have, in some instances, been embezzled by fraudulent agents; and in others, partial returns of the children have been made, and some have been illegally and intentionally excluded from participating in the provisions of the law. From a parsimonious desire of saving the county funds, the cheapest, and consequently the most inefficient schools have been usually selected by the commissioners of the several counties.

The elementary schools throughout the state are irresponsible institutions, established by individuals, from mere motives of private speculation or gain, who are sometimes destitute of character, and frequently, of the requisite attainments and abilities. From the circumstance of the schools being the absolute property of individuals, no supervision or effectual control can be exercised over them; hence, ignorance, inattention, and even immorality, prevail to a lamentable extent among their teachers.

In some districts, no schools whatever exist! No means whatever of acquiring education are resorted to; while ignorance, and its never failing consequence, crime, are found to prevail in these neglected spots, to a greater extent than in other more favored portions of the state.

The "three school districts," however, which have been alluded to, are not liable to these objections. . .

But the principles on which these "school districts" are founded, are yet, in the opinion of the committees, extremely defective and inefficient. Their leading feature is pauperism! They are confined exclusively to the children of the poor, while there are, perhaps, thousands of children whose parents are unable to afford for them, a good private education, yet whose standing, professions or connexions in society effectually exclude them from taking the benefit of a poor law. There are great numbers, even of the poorest parents, who hold a dependence on the public bounty to be incompatible with the rights and liberties of an American citizen, and whose deep and cherished

consciousness of independence determines them rather to starve the intellect of their offspring, than submit to become the objects of public charity.

There are, also, many poor families, who are totally unable to maintain and clothe their children, while at the schools; and who are compelled to place them, at a very early age, at some kind of labor that may assist in supporting them, or to bind them out as apprentices. . .

Another radical and glaring defect in the existing public school system is the very limited amount of instruction it affords, even to the comparatively small number of youth, who enjoy its benefits. It extends, in no case, further than a tolerable proficiency in reading, writing, and arithmetic, and sometimes to a slight acquaintance with geography. Besides these, the girls are taught a few simple branches of industry. . .

The present public school system, limited as it is to three solitary school districts, makes no provision for the care and instruction of children under five years old. This class of children is numerous, especially among the poor, and it frequently happens that the parents, or parent, (perhaps a widow) whose only resource for a livelihood is her needle or wash tub, is compelled to keep her elder children from the school to take charge of the younger ones, while her own hands are industriously employed in procuring a subsistence for them. . .

An opinion is entertained by many good and wise persons, and supported to a considerable extent, by actual experiment, that proper schools for supplying a judicious infant training, would effectually prevent much of that vicious depravity of character which penal codes and punishments are vainly intended to counteract. Such schools would, at least, relieve, in a great measure, many indigent parents, from the care of children, which in many cases occupies as much of their time as would be necessary to earn the children a subsistence. They would also afford many youth an opportunity of participating in the benefits of the public schools, who otherwise must, of necessity, be detained from them.

From this view of the public instruction in Pennsylvania, it is manifest that, even in "the school districts," to say nothing of the remainder of the state, a very large proportion of youth are either partially or entirely destitute of education.

It is true the state is not without its colleges and universities, several of which have been fostered with liberal supplies from the public purse. Let it be observed, however, that the funds so applied, have been appropriated exclusively for the benefit of the wealthy, who are thereby enabled to procure a liberal education for their children, upon lower terms than it could otherwise be afforded them. . .

The original element of despotism is a monopoly of talent, which consigns the multitude to comparative ignorance, and secures the balance of knowledge on the side of the rich and the rulers. . .

In a republic, the people constitute the government, and by wielding its powers in accordance with the dictates, either of their intelligence or their ignorance; of their judgment or their caprices, are the makers and the rulers of their own good or evil destiny. They frame the laws and create the institutions, that promote their happiness or produce their destruction. If they be wise and intelligent, no laws but what are just and equal will receive their approbation, or be sustained by their suffrages. If they be ignorant and capricious, they will be deceived by mistaken or designing rulers, into the support of laws that are unequal and unjust.

It appears, therefore, to the committees that there can be no real liberty without a wide diffusion of real intelligence; that the members of a republic, should all be alike instructed in the nature and character of their equal rights and duties, as human beings, and as citizens; and that education, instead of being limited as in our public poor schools, to a simple acquaintance with words and cyphers, should tend, as far as possible, to the production of a just disposition, virtuous habits, and a rational self governing character.

The instruction afforded by common schools, . . being only elementary, must, of necessity, produce but a very limited development of the human faculties. It would indeed diminish, but could not destroy, the present injurious monopoly of talent. While the higher branches of literature and science remain accessible only to the children of the wealthy, there must still be a balance of knowledge, and with it a "balance of power," in the hands of the privileged few, the rich and the rulers.

Another radical defect in the best system of common schools yet established, will be found in its not being adapted to meet the wants and necessities of those who stand most in need of it. Very many of the poorest parents are totally unable to clothe and maintain their children while at school, and are compelled to employ their time, while yet very young, in aiding to procure a subsistence. . .

The constitution of this state declares that "the legislature shall provide schools in which the poor may be taught gratis." If this signifies that the poor shall have an opportunity afforded for instruction, it must involve means equal to the end. The poverty of the poor must be no obstruction, otherwise the constitution is a dead letter — nay, worse, an insult on their unfortunate condition and feelings.

119. THE JEFFERSON BANQUET TOAST

The following is Martin Van Buren's eye witness account of one of the dramatic scenes of American history, the Jefferson Day Banquet, April 13, 1830, at which Jackson squarely set himself against Calhoun's projects of nullification.

From the Autobiography of Martin Van Buren, American Historical Association, Annual Report 1918, Vol. 2, pp. 409-417.

... MR. CALHOUN was without doubt deeply moved on the subject of the tariff laws and particularly so during the year 1828, which was that of the election of Gen. Jackson to the Presidency and also of the extravagant tariff bill passed the preceding winter...

If Mr. Calhoun... had said, openly and frankly, to his Northern brethren, I contributed to the introduction of this principle of protection into our legislation, believing that it would work to the general advantage, but experience has shown that your section of the Country derives advantages from it to which ours can never attain, that it, on the contrary, enures to our injury, .. he must have established for himself an enviable renown and for his cause the full assurance if not the immediate enjoyment of triumph. But he seemed to attach as much importance to being consistent as to being right — perhaps more, .. For these and other reasons he was indisposed to trust himself in the beaten track but sought for a more enterprising as well as a more striking course, .. In this frame of mind his attention was naturally attracted to the memorable proceedings of Jefferson, Madison, Taylor of Caroline, Nicholas and their compeers of Virginia and Kentucky in respect to the alien and sedition laws, .. There is indeed no doubt that in addition to a sincere desire to relieve his section from an offensive tariff Mr. Calhoun's action was strongly stimulated by an eager emulation, on behalf of himself, his political friends and the State of South Carolina, of the honors awarded for those proceedings to the Statesmen and to the States I have named, ..

The anniversary of the birth-day of Thomas Jefferson, a most appropriate day if such had been his design, was selected for the commencement of the movement he had in view. The circumstances under which that day was, for the first time, seized upon for special commemoration; .. and the names of the men most prominent in those preparations contrasted with the ominous suddenness of their reverence for the memory of Jefferson combined to attract the attention... especially of those whose province it was to see to the faithful execution of the laws. Neither the President nor myself were inattentive

observers of these signs, but made them the subject of frequent conversations... my mind was strongly impressed with a belief that some irregular and unauthorized proceedings were contemplated which might menace the stability of the Union...

The subject was one which in every aspect required the utmost prudence and circumspection on the part of the President, and having both accepted invitations to the Dinner we agreed to meet first at his office to consider the course proper for him to pursue on the occasion... The safety and propriety of virtually assuming by the character of the toast to be proposed by the President that the proceedings and ceremonies of the day were portentous of danger to the Union, and the question whether any advantage might be anticipated from his abrupt and defiant presentation of himself as its ready guardian and Champion, were deliberately considered and affirmatively decided. The form of his toast was accordingly agreed upon and my own, which was expected to be the third volunteer, was so constructed as to follow suit with his in spirit and tenor. Thus armed we repaired to the dinner with feelings on the part of the old Chief akin to those which would have animated his breast if the scene of this preliminary skirmish in defence of the Union had been the field of battle instead of the festive board.

Less knowledge of the political characters of the men engaged in getting up this drama and a very small degree of sagacity in the interpretation of their movements would have been enough to satisfy us of the justice of our suspicions that the convocation had been designed for the advancement of a particular measure — that of nullification, rather than for the object that had been avowed, to wit, the promotion of the general interests of our party...

A Virginian was placed in the Chair. Of the twenty-four regular toasts all but six or seven spoke of Virginia and of Jefferson — referring to, describing and embracing political principles which he had at different times avowed and to others which were known to constitute parts of the political creed of the State...

The President and Vice President were seated near the Chair; my position being at the foot of the second table, .. When the President was called upon for his toast I was obliged to stand on my chair to get a distinct view of what passed in his vicinity. There was no misunderstanding the effect it produced upon the company neither could any sentiment from another have occasioned a tithe of the sensation that was witnessed throughout the large assemblage. The veil was rent — the incantations of the night were exposed to the light of day. Gen. Hayne left his seat and ran to the President to beg him to insert the word "federal," so that the toast should read "OUR FEDERAL

UNION — IT MUST BE PRESERVED! ” This was an ingenious suggestion as it seemed to make the rebuke less pungent, although it really had no such effect. The President cheerfully assented because in point of fact the addition only made the toast what he had originally designed it to be — he having rewritten it, in the bustle and excitement of the occasion, on the back of the list of regular toasts which had been laid before him, instead of using the copy in his pocket, and having omitted that word inadvertently.

The affair proceeded but the feeling of the guests was plainly manifested that the game was blocked. . .

The first three volunteers were:

— By President Jackson.

Our Federal Union — it must be preserved.

— By Vice President Calhoun.

The Union — next to our liberty the most dear; may we all remember that it can only be preserved by respecting the rights of the States and distributing equally the benefit and burden of the Union.

— By myself.

Mutual forbearance and reciprocal concessions; thro' their agency the Union was established — the patriotic spirit from which they emanated will forever sustain it.

The common point at which all these toasts were directed — the Union — is significant of the prevalence and strength of the impression that the celebration was a movement having special reference to that great interest. Some of the opposition presses commented upon the President's object with unusual accuracy. Walsh said — “The President has taken the bull by the horns,” and the *National Intelligencer* that “it was as much as to say, in reply to the authors of some of the preceding sentiments, — ‘you may complain of the tariff and perhaps with reason, but so long as it is the law it shall as certainly be maintained as my name is Andrew Jackson’ —.” If we change the address so as to make it applicable to the principal getters up of the meeting that was precisely what the President's toast was designed to say. To that end was it concocted and for that purpose was it given.

120. GARRISONIAN ABOLITIONISM

William Lloyd Garrison introduced into anti-slavery activity a new note, — impassioned intolerance. It awoke Southern hostility to slavery agitation as nothing had before. The following is the announcement of aims that appeared in the first number of Garrison's abolitionist paper, The Liberator, January 1, 1831.

To the Public

IN the month of August, I issued proposals for publishing "THE LIBERATOR" in Washington City; but the enterprise, though hailed in different sections of the country, was palsied by public indifference. Since that time, the removal of the *Genius of Universal Emancipation* to the Seat of Government has rendered less imperious the establishment of a similar periodical in that quarter.

During my recent tour for the purpose of exciting the minds of the people by a series of discourses on the subject of slavery, every place that I visited gave fresh evidence of the fact, that a greater revolution in public sentiment was to be effected in the free States—and particularly in New-England—than at the South. I found contempt more bitter, opposition more active, detraction more relentless, prejudice more stubborn, and apathy more frozen, than among slave-owners themselves. Of course, there were individual exceptions to the contrary. This state of things afflicted, but did not dishearten me. I determined, at every hazard, to lift up the standard of emancipation in the eyes of the nation, *within sight of Bunker Hill and in the birth-place of liberty*. That standard is now unfurled; and long may it float, unhurt by the spoliations of time or the missiles of a desperate foe—yea, till every chain be broken, and every bondman set free! Let Southern oppressors tremble—let their secret abettors tremble—let their Northern apologists tremble—let all the enemies of the persecuted blacks tremble.

I deem the publication of my original Prospectus unnecessary, as it has obtained a wide circulation. The principles therein inculcated will be steadily pursued in this paper, excepting that I shall not array myself as the political partisan of any man. In defending the great cause of human rights, I wish to derive the assistance of all religions and of all parties.

Assenting to the "self-evident truth" maintained in the American Declaration of Independence, "that all men are created equal, and endowed by their Creator with certain inalienable rights—among which are life, liberty and the pursuit of happiness," I shall strenuously contend for the immediate enfranchisement of our slave population. In Park-Street Church, on the Fourth of July, 1829, in an address on slavery, I unreflectingly assented to the popular but pernicious doctrine of *gradual* abolition. I seize this opportunity to make a full and unequivocal recantation, and thus publicly to ask pardon of my God, of my country, and of my brethren the poor slaves, for having uttered

a sentiment so full of timidity, injustice, and absurdity. A similar recantation, from my pen, was published in the *Genius of Universal Emancipation* at Baltimore, in September, 1829. My conscience is now satisfied.

I am aware that many object to the severity of my language; but is there not cause for severity? I *will be* as harsh as truth, and as uncompromising as justice. On this subject, I do not wish to think, or speak, or write, with moderation. No! no! Tell a man whose house is on fire to give a moderate alarm; tell him to moderately rescue his wife from the hands of the ravisher; tell the mother to gradually extricate her babe from the fire into which it has fallen; — but urge me not to use moderation in a cause like the present. I am in earnest — I will not equivocate — I will not excuse — I will not retreat a single inch — AND I WILL BE HEARD. The apathy of the people is enough to make every statue leap from its pedestal, and to hasten the resurrection of the dead.

It is pretended, that I am retarding the cause of emancipation by the coarseness of my invective and the precipitancy of my measures. *The charge is not true.* On this question my influence, — humble as it is, — is felt at this moment to a considerable extent, and shall be felt in coming years — not perniciously, but beneficially — not as a curse, but as a blessing; and posterity will bear testimony that I was right. I desire to thank God, that he enables me to disregard “the fear of man which bringeth a snare,” and to speak his truth in its simplicity and power. And here I close with this fresh dedication:

“Oppression! I have seen thee, face to face,
And met thy cruel eye and cloudy brow;
But thy soul-withering glance I fear not now —
For dread to prouder feelings doth give place
Of deep abhorrence! Scorning the disgrace
Of slavish knees that at thy footstool bow,
I also kneel — but with far other vow
Do hail thee and thy herd of hirelings base: —
I swear, while life-blood warms my throbbing veins,
Still to oppose and thwart, with heart and hand,
Thy brutalising sway — till Afric’s chains
Are burst, and Freedom rules the rescued land, —
Trampling Oppression and his iron rod:
Such is the vow I take — SO HELP ME GOD!”

WILLIAM LLOYD GARRISON.

BOSTON, Janaury 1, 1831.

121. JACKSON'S VETO OF THE BANK RECHARTER

Compare with the Charter of the Bank No. 99 and McCulloch vs Maryland No. 105.

Richardson, Messages and Papers of the Presidents, Vol. 2, pp. 576-591.

WASHINGTON, July 10, 1832.

To the Senate:

THE bill "to modify and continue" the act entitled "An act to incorporate the subscribers to the Bank of the United States" was presented to me on the 4th July instant. Having considered it with that solemn regard to the principles of the Constitution which the day was calculated to inspire, and come to the conclusion that it ought not to become a law, I herewith return it to the Senate, in which it originated, with my objections.

A bank of the United States is in many respects convenient for the Government and useful to the people. Entertaining this opinion, and deeply impressed with the belief that some of the powers and privileges possessed by the existing bank are unauthorized by the Constitution, subversive of the rights of the States, and dangerous to the liberties of the people, I felt it my duty at an early period of my Administration to call the attention of Congress to the practicability of organizing an institution combining all its advantages and obviating these objections. I sincerely regret that in the act before me I can perceive none of those modifications of the bank charter which are necessary, in my opinion, to make it compatible with justice, with sound policy, or with the Constitution of our country.

The present corporate body, denominated the president, directors, and company of the Bank of the United States, will have existed at the time this act is intended to take effect twenty years. . . The powers, privileges, and favors bestowed upon it in the original charter, by increasing the value of the stock far above its par value, operated as a gratuity of many millions to the stockholders.

. . . The act before me proposes another gratuity to the holders of the same stock, and in many cases to the same men, of at least seven millions more. . . It is not our own citizens only who are to receive the bounty of our Government. More than eight millions of the stock of this bank are held by foreigners. . . For these gratuities to foreigners and to some of our own opulent citizens the act secures no equivalent whatever. . .

It is not conceivable how the present stockholders can have any claim

to the special favor of the Government. The present corporation has enjoyed its monopoly during the period stipulated in the original contract. If we must have such a corporation, why should not the Government sell out the whole stock and thus secure to the people the full market value of the privileges granted? . .

But this act does not permit competition in the purchase of this monopoly. . . It appears that more than a fourth part of the stock is held by foreigners and the residue is held by a few hundred of our own citizens, chiefly of the richest class. For their benefit does this act exclude the whole American people from competition in the purchase of this monopoly and dispose of it for many millions less than it is worth. . .

. . . I can not perceive the justice or policy of this course. If our Government must sell monopolies, it would seem to be its duty to take nothing less than their full value, and if gratuities must be made once in fifteen or twenty years let them not be bestowed on the subjects of a foreign government nor upon a designated and favored class of men in our own country. . .

It has been urged as an argument in favor of rechartering the present bank that the calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample, and if it has been well managed its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own, and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force is to admit that the bank ought to be perpetual, and as a consequence the present stockholders and those inheriting their rights as successors be established a privileged order, clothed both with great political power and enjoying immense pecuniary advantages from their connection with the Government. . .

In another of its bearings this provision is fraught with danger. Of the twenty-five directors of this bank five are chosen by the Government and twenty by the citizen stockholders. From all voice in these elections the foreign stockholders are excluded by the charter. In proportion, therefore, as the stock is transferred to foreign holders the extent of suffrage in the choice of directors is curtailed. . . The entire control of the institution would necessarily fall into the hands of a few citizen stockholders. . . There is danger that a president and directors would then be able to elect themselves from year to year, and without responsibility or control manage the whole concerns of the bank during the existence of its charter. It is easy to conceive that great evils to our

country and its institutions might flow from such a concentration of power in the hands of a few men irresponsible to the people.

Is there no danger to our liberty and independence in a bank that in its nature has so little to bind it to our country? .. Should its influence become concentrated, .. in the hands of a self-elected directory whose interests are identified with those of the foreign stockholders, will there not be cause to tremble for the purity of our elections in peace and for the independence of our country in war? .. if any private citizen or public functionary should interpose to curtail its powers or prevent a renewal of its privileges, it can not be doubted that he would be made to feel its influence.

Should the stock of the bank principally pass into the hands of the subjects of a foreign country, and we should unfortunately become involved in a war with that country, what would be our condition? .. Controlling our currency, receiving our public moneys, and holding thousands of citizens in dependence, it would be more formidable and dangerous than the naval and military power of the enemy.

If we must have a bank with private stockholders, every consideration of sound policy and every impulse of American feeling admonishes that it should be *purely American*...

It is maintained by the advocates of the bank that its constitutionality in all its features ought to be considered as settled by precedent and by the decision of the Supreme Court. To this conclusion I can not assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power except where the acquiescence of the people and the States can be considered as well settled...

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution. Each public officer who takes an oath to support the Constitution swears that he will support it as he understands, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities,

but to have only such influence as the force of their reasoning may deserve...

By its silence, considered in connection with the decision of the Supreme Court in the case of *McCulloch* against the State of Maryland, this act takes from the States the power to tax a portion of the banking business carried on within their limits, in subversion of one of the strongest barriers which secured them against Federal encroachments...

The principle is conceded that the States can not rightfully tax the operations of the General Government. They can not tax the money of the Government deposited in the State banks, nor the agency of those banks in remitting it; but will any man maintain that their mere selection to perform this public service for the General Government would exempt the State banks and their ordinary business from State taxation? Had the United States, instead of establishing a bank at Philadelphia, employed a private banker to keep and transmit their funds, would it have deprived Pennsylvania of the right to tax his bank and his usual banking operations? It will not be pretended. Upon what principle, then, are the banking establishments of the Bank of the United States and their usual banking operations to be exempted from taxation? It is not their public agency or the deposits of the Government which the States claim a right to tax, but their banks and their banking powers, instituted and exercised within state jurisdiction for their private emolument—those powers and privileges for which they pay a bonus, and which the States tax in their own banks. The exercise of these powers within a State, no matter by whom or under what authority, whether by private citizens in their original right, by corporate bodies created by the States, by foreigners or the agents of foreign governments located within their limits, forms a legitimate object of State taxation... There is no more appropriate subject of taxation than banks, banking, and bank stocks, and none to which the States ought more pertinaciously to cling.

It can not be *necessary* to the character of the bank as a fiscal agent of the Government that its private business should be exempted from that taxation to which all the State banks are liable, nor can I conceive it "*proper*" that the substantive and most essential powers reserved by the States shall be thus attacked and annihilated as a means of executing the powers delegated to the General Government...

... That a bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers or the reserved rights of the States I do not entertain a doubt. Had the Executive been called upon

to furnish the project of such an institution, the duty would have been cheerfully performed. In the absence of such a call it was obviously proper that he should confine himself to pointing out those prominent features in the act presented which in his opinion make it incompatible with the Constitution and sound policy...

Suspensions are entertained and charges are made of gross abuse and violation of its charter. An investigation unwillingly conceded and so restricted in time as necessarily to make it incomplete and unsatisfactory discloses enough to excite suspicion and alarm... As the charter had yet four years to run, and as a renewal now was not necessary to the successful prosecution of its business, it was to have been expected that the bank itself, conscious of its purity and proud of its character, would have withdrawn its application for the present, and demanded the severest scrutiny into all its transactions. In their declining to do so there seems to be an additional reason why the functionaries of the Government should proceed with less haste and more caution in the renewal of their monopoly.

The bank is professedly established as an agent of the executive branch of the Government, and its constitutionality is maintained on that ground. Neither upon the propriety of present action nor upon the provisions of this act was the Executive consulted. It has had no opportunity to say that it neither needs nor wants an agent clothed with such powers and favored by such exemptions. There is nothing in its legitimate functions which makes it necessary or proper. Whatever interest or influence, whether public or private, has given birth to this act, it can not be found either in the wishes or necessities of the executive department, by which present action is deemed premature, and the powers conferred upon its agent not only unnecessary, but dangerous to the Government and country.

.....

Nor is our Government to be maintained or our Union preserved by invasions of the rights and powers of the several States. In thus attempting to make our General Government strong we make it weak. Its true strength consists in leaving individuals and States as much as possible to themselves...

... Many of our rich men have not been content with equal protection and equal benefits, but have besought us to make them richer by act of Congress. By attempting to gratify their desires we have in the results of our legislation arrayed section against section, interest against interest, and man against man, in a fearful commotion which threatens to shake the foundations of our Union. It is time to pause in our career

to review our principles, and if possible revive that devoted patriotism and spirit of compromise which distinguished the sages of the Revolution and the fathers of our Union. If we can not at once, in justice to interests vested under improvident legislation, make our Government what it ought to be, we can at least take a stand against all new grants of monopolies and exclusive privileges, against any prostitution of our Government to the advancement of the few at the expense of the many, and in favor of compromise and gradual reform in our code of laws and system of political economy.

I have now done my duty to my country. If sustained by my fellow-citizens, I shall be grateful and happy; if not, I shall find in the motives which impel me ample grounds for contentment and peace...

ANDREW JACKSON.

122. THE NULLIFICATION ORDINANCE OF SOUTH CAROLINA

November 24, 1832, a convention of South Carolina put the doctrine of nullification into practice in the following Ordinance.

Senate Documents, 22 Congress, 2 session, 1832-1833, vol. 1, No. 30, pp. 36-38.

ORDINANCE

An Ordinance to Nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importation of foreign commodities.

WHEREAS the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, . . hath exceeded its just powers under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burthens of taxation upon the several States and portions of the confederacy: And whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the Constitution:

We, therefore, the people of the State of South Carolina in Convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled "An act in alteration of the several acts imposing duties on imports," approved on the nineteenth day of May, one thousand eight hundred and twenty-eight, and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the 1st day of February next, . .

And it is further ordained, that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, . . and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

And it is further ordained, that all persons now holding any office of honor, profit, or trust, civil or military, under this State, (members of the Legislature excepted,) shall, within such time, and in such

manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce, this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, ..

And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this, our ordinance and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the Federal Government, to coerce the State, shut up her ports, destroy or harrass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other States, and will forthwith proceed to organize a separate Government, and do all other acts and things which sovereign and independent States may of right to do.

Done in Convention at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the declaration of the independence of the United States of America.

JAMES HAMILTON, jr.,

President of the Convention, and Delegate from St. Peters.

123. JACKSON'S PROCLAMATION TO SOUTH CAROLINA

Jackson's answer to the Nullification Ordinance was the following proclamation of December 10, 1832, partly a constitutional argument, partly a popular appeal. The constitutional argument is the work of Edward Livingston, Jackson's Secretary of State. Livingston saw the constitutional issue far more clearly than Webster, whose name is

popularly connected with the statement of the case against nullification.

Richardson, Messages and Papers of the Presidents, Vol. 2, pp. 640-656.

WHEREAS a convention assembled in the State of South Carolina have passed an ordinance by which they declare "that the several acts and parts of acts of the Congress of the United States purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially" two acts for the same purposes passed on the 29th of May, 1828, and on the 14th of July, 1832, "are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void and no law," nor binding on the citizens of that State or its officers; . .

To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow-citizens have reposed in me, I, Andrew Jackson, President of the United States, have thought proper to issue this my proclamation, stating my views of the Constitution and laws applicable to the measures adopted by the convention of South Carolina and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warn them of the consequences that must inevitably result from an observance of the dictates of the convention. . .

The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional and too oppressive to be endured, but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution; that they may do this consistently with the Constitution; that the true construction of that instrument permits a State to retain its place in the Union and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law it must be palpably contrary to the Constitution; but it is evident that to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws; for as by the theory there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress?

There is, however, a restraint in this last case which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress — one to the judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous when our social compact, in express terms, declares that the laws of the United States, its Constitution, and treaties made under it are the supreme law of the land, and, for greater caution, adds “that the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.” And it may be asserted without fear of refutation that no federative government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port; and no revenue could be collected anywhere, for all imposts must be equal. It is no answer to repeat that an unconstitutional law is no law so long as the question of its legality is to be decided by the State itself, for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional and, as has been shown, there is no appeal. . .

I consider, then, the power to annul a law of the United States, assumed by one State, *incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.*

After this general view of the leading principle, we must examine the particular application of it which is made in the ordinance.

The preamble rests its justification on these grounds: It assumes as a fact that the obnoxious laws, although they purport to be laws for raising revenue, were in reality intended for the protection of manufactures, which purpose it asserts to be unconstitutional; that the operation of these laws is unequal; that the amount raised by them is greater than is required by the wants of the Government; and, finally, that the proceeds are to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country and a threat of seceding from the Union if any attempt should be made to enforce them. The first virtually acknowledges that the law in question was passed under a power expressly

given by the Constitution to lay and collect imposts; but its constitutionality is drawn in question from the *motives* of those who passed it. . . How often may bad purposes be falsely imputed, in how many cases are they concealed by false professions, in how many is no declaration of motive made? Admit this doctrine, and you give to the States an uncontrolled right to decide, and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted that a State may annul an unconstitutional law, or one that it deems such, it will not apply to the present case.

The next objection is that the laws in question operate unequally. This objection may be made with truth to every law that has been or can be passed. The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law makes it unconstitutional, and if all laws of that description may be abrogated by any State for that cause, then, indeed, is the Federal Constitution unworthy of the slightest effort for its preservation. . . Did the name of Washington sanction, did the States deliberately ratify, such an anomaly in the history of fundamental legislation? . . No; we did not err. Our Constitution does not contain the absurdity of giving power to make laws and another to resist them. . . The Father of his Country did not affix his revered name to so palpable an absurdity. Nor did the States, when they severally ratified it, do so under the impression that a veto on the laws of the United States was reserved to them or that they could exercise it by implication. . . The Constitution is still the object of our reverence, the bond of our Union, our defense in danger, the source of our prosperity in peace. It shall descend, as we have received it, uncorrupted by sophistical construction, to our posterity; and the sacrifices of local interest, of State prejudices, of personal animosities, that were made to bring it into existence, will again be patriotically offered for its support.

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On such expositions and reasonings the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union if any attempt is made to execute them.

This right to secede is deduced from the nature of the Constitution, which, they say, is a compact between sovereign States who have preserved their whole sovereignty and therefore are subject to no superior; that because they made the compact they can break it when in their opinion it has been departed from by the other States. Fallacious as this course of reasoning is, it enlists State pride and finds advocates in the

honest prejudices of those who have not studied the nature of our Government sufficiently to see the radical error on which it rests.

The people of the United States formed the Constitution, acting through the State legislatures in making the compact, . . but the terms used in its construction show it to be a Government in which the people of all the States, collectively, are represented. We are *one people* in the choice of President and Vice-President. . .

In the House of Representatives there is this difference, that the people of one State do not, as in the case of President and Vice-President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular State from which they come. . .

The Constitution of the United States, then, forms a *government*, not a league; and whether it be formed by compact between the States or in any other manner, its character is the same. It is a Government in which all the people are represented, which operates directly on the people individually, not upon the States, they retained all the power they did not grant. But each State, having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, can not, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offense against the whole Union. . . Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right is confounding the meaning of terms, and can only be done through gross error or to deceive those who are willing to assert a right, but would pause before they made a revolution or incur the penalties consequent on a failure.

Because the Union was formed by a compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it; but it is precisely because it is a compact that they can not. A compact is an agreement or binding obligation. . . An attempt, by force of arms, to destroy a government is an offense, by whatever means the constitutional compact may have been formed; and such government has the right by the law of self-defense to pass acts for punishing the offender, unless that right is modified, restrained, or resumed by the constitutional act. In our system, although it is modified in the case of treason, yet authority is expressly given to pass all laws necessary to carry its powers into effect, and under this grant provision has been

made for punishing acts which obstruct the due administration of the laws. . . .

. . . Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others on which dispassionate reflection can leave no doubt. Of this nature appears to be the assumed right of secession. It rests, as we have seen, on the alleged undivided sovereignty of the States and on their having formed in this sovereign capacity a compact which is called the Constitution, from which, because they made it, they have the right to secede. Both of these positions are erroneous, and some of the arguments to prove them so have been anticipated.

The States severally have not retained their entire sovereignty. It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties, declare war, levy taxes, exercise exclusive judicial and legislative powers, were all of them functions of sovereign power. The States, then, for all these important purposes were no longer sovereign. The allegiance of their citizens was transferred, in the first instance, to the Government of the United States; they became American citizens and owed obedience to the Constitution of the United States and to laws made in conformity with the powers it vested in Congress. This last position has not been and can not be denied. How, then, can that State be said to be sovereign and independent whose citizens owe obedience to laws not made by it and whose magistrates are sworn to disregard those laws when they come in conflict with those passed by another?

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Fellow-citizens of my native State, let me not only admonish you, as the First Magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves or wish to deceive you. . . They are not champions of liberty, emulating the fame of our Revolutionary fathers, nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage. You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operation of laws which may have been unwisely, not unconstitutionally, passed; but that inequality must necessarily be removed. At the very moment when you were madly urged on to the unfortunate course you have

begun a change in public opinion had commenced. The nearly approaching payment of the public debt and the consequent necessity of a diminution of duties had already produced a considerable reduction, and that, too, on some articles of general consumption in your State. The importance of this change was underrated, and you were authoritatively told that no further alleviation of your burthens was to be expected at the very time when the condition of the country imperiously demanded such a modification of the duties as should reduce them to a just and equitable scale. . .

. . . Contemplate the condition of that country of which you still form an important part. Consider its Government, uniting in one bond of common interest and general protection so many different States, . . Consider the extent of its territory, its increasing and happy population, its advance in arts which render life agreeable, and the sciences which elevate the mind! See education spreading the lights of religion, morality, and general information into every cottage in this wide extent of our Territories and States. . . Look on this picture of happiness and honor and say, *We too are citizens of America*. . . And then add, if you can, without horror and remorse, This happy Union we will dissolve; this picture of peace and prosperity we will deface; this free intercourse we will interrupt; these fertile fields we will deluge with blood; the protection of that glorious flag we renounce; the very name of Americans we discard. . . But the dictates of a high duty oblige me solemnly to announce that you can not succeed. The laws of the United States must be executed. I have no discretionary power on the subject; my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution deceived you; they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion. But be not deceived by names. Disunion by armed force is *treason*. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences; on their heads be the dishonor, but on yours may fall the punishment. On your unhappy State will inevitably fall all the evils of the conflict you force upon the Government of your country. It can not accede to the mad project of disunion, of which you would be the first victims. Its First Magistrate can not, if he would, avoid the performance of his duty. . . I adjure you, . . to retrace your steps. Snatch from the archives of your State the disorganizing edict of its convention; bid its members to reassemble and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety,

prosperity, and honor. Tell them that compared to disunion all other evils are light, because that brings with it an accumulation of all. Declare that you will never take the field unless the star-spangled banner of your country shall float over you; that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the Constitution of your country. . .

Fellow-citizens of the United States, the threat of unhallowed disunion, the names of those once respected by whom it is uttered, the array of military force to support it, denote the approach of a crisis in our affairs on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and as the claim was asserted of a right by a State to annul the laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin and form of our Government and the construction I give to the instrument by which it was created seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties which has been expressed, I rely with equal confidence on your undivided support in my determination to execute the laws, to preserve the Union by all constitutional means, to arrest, if possible, by moderate and firm measures the necessity of a recourse to force; and if it be the will of Heaven that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States. . .

In testimony whereof I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington, this 10th day of December, [SEAL] A. D. 1832, and of the Independence of the United States the fifty-seventh.

ANDREW JACKSON.

By the President:

EDW. LIVINGSTON,

Secretary of State.

124. THE FORCE BILL

The measure was designed to give Jackson additional powers that might be needed in enforcing the laws in South Carolina. Its passage was delayed so that it became a law on the same day, March 2, 1833, as the

Compromise Tariff of 1833, which went part way toward satisfying South Carolina's grievances. She thus saved her face in rescinding her ordinance nullifying the tariff; further she nullified the Force Bill, retaining the ordinance nullifying it on her state records down to her secession in 1860.

Public Statutes at Large of the United States, vol. 4, pp. 632-635.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, it shall become impracticable, in the judgment of the President, to execute the revenue laws, and collect the duties on imports in the ordinary way, . . it shall and may be lawful for the President to direct that the custom-house . . . be . . . kept in any secure place within some port . . . either upon land or on board any vessel; and, in that case, it shall be the duty of the collector to reside at such place, and there to detain all vessels and cargoes . . . until the duties imposed on said cargoes, by law, be paid in cash, . . and in such cases it shall be unlawful to take the vessel or cargo from the custody of the proper officer . . . unless by process from some court of the United States; and in case of any attempt otherwise to take such vessel or cargo by any force, or combination, or assemblage of persons too great to be overcome by the officers of the customs, it shall . . . be lawful for the President of the United States, . . to employ such part of the land or naval forces, or militia of the United States, as may be deemed necessary for the purpose of preventing the removal of such vessel or cargo, and protecting the officers of the customs in retaining the custody thereof.

.....

SEC. 5. *And be it further enacted*, That whenever the President of the United States shall be officially informed, by the authorities of any state, or by a judge of any . . . court of the United States, in the state, that, within the limits of such state, any law or laws of the United States, . . is obstructed by the employment of military force, or by any other unlawful means, too great to be overcome by the ordinary course of judicial proceeding, . . it shall be lawful for him, the President of the United States, forthwith to issue his proclamation, declaring such fact or information, and requiring all such military and other force forthwith to disperse; and if at any time after issuing such proclamation, any such opposition or obstruction shall be made, in the manner or by the means aforesaid, the President shall be, and hereby is, author-

ized, promptly to employ such means to suppress the same, .. as ... authorized and provided in the cases therein mentioned by the act of the twenty-eighth of February, one thousand seven hundred and ninety-five, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasions, and to repeal the act now in force for that purpose;" and also, by the act of the third of March, one thousand eight hundred and seven, entitled "An act authorizing the employment of the land and naval forces of the United States in cases of insurrection."

.....

125. THE COMPROMISE TARIFF OF 1833

Passed March 2, 1833. See introduction to the Force Bill, No. 124.

Public Statutes at Large of the United States, Vol. 4, pp. 629-31.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That from and after the thirty-first day of December, one thousand eight hundred and thirty-three, in all cases where duties are imposed on foreign imports, by the act of the fourteenth day of July, one thousand eight hundred and thirty-two, entitled "An act to alter and amend the several acts imposing duties on imports," or by any other act, shall exceed twenty per centum on the value thereof, one tenth part of such excess shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-five, another tenth part thereof shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-seven, another tenth part thereof shall be deducted; from and after the thirty-first day of December, one thousand eight hundred and thirty-nine, another tenth part thereof shall be deducted; and from and after the thirty-first day of December, one thousand eight hundred and forty-one, one half of the residue [residue] of such excess shall be deducted; and from and after the thirtieth day of June, one thousand eight hundred and forty-two, the other half thereof shall be deducted...

.....

SEC. 6. *And be it further enacted*, That so much of the act of the fourteenth day of July, one thousand eight hundred and thirty-two, or of any other act, as is inconsistent with this act, shall be, and the same is hereby, repealed: *Provided*, That nothing herein contained shall

be so construed as to prevent the . . . passage of any act, prior to the thirtieth day of June, one thousand eight hundred and forty-two, in the contingency either of excess or deficiency of revenue, altering the rates of duties on articles which, by the aforesaid act of fourteenth day of July, one thousand eight hundred and thirty-two, are subject to a less rate of duty than twenty per centum ad valorem, in such manner as not to exceed that rate, and so as to adjust the revenue to either of the said contingencies.

APPROVED, March 2, 1833.

126. THE SPECIE CIRCULAR

American State Papers, Public Lands, *Vol. 8, p. 910.*

TREASURY DEPARTMENT, *July 11, 1836.*

IN consequence of complaints which have been made of frauds, speculations, and monopolies, in the purchase of the public lands, and the aid which is said to be given to effect these objects by excessive bank credits, and dangerous if not partial facilities, through bank drafts and bank deposits, and the general evil influence likely to result to the public interests, and especially the safety of the great amount of money in the Treasury, and the sound condition of the currency of the country, from the further exchange of the national domain in this manner, and chiefly for bank credits and paper money, the President of the United States has given directions, and you are hereby instructed, after the 15th day of August next, to receive in payment of the public lands nothing except what is directed by the existing laws, viz.: gold and silver, and in the proper cases, Virginia land scrip; provided that, till the 15th of December next, the same indulgences heretofore extended as to the kind of money received, may be continued for any quantity of land not exceeding 320 acres to each purchaser who is an actual settler, or bonafide resident in the State where the sales are made.

In order to insure the faithful execution of these instructions, all receivers are strictly prohibited from accepting for land sold, any draft, certificate, or other evidence of money or deposit, though for specie, unless signed by the Treasurer of the United States, in conformity to the act of April 24, 1820. And each of those officers is required to annex to his monthly returns to this department, the amount of gold and of silver respectively, as well as the bills received under the foregoing exception; and each deposit bank is required to annex to every certificate given upon a deposit of money, the proportions of it actually

paid in gold, in silver, and in bank-notes. All former instructions on these subjects, except as now modified, will be considered as remaining in full force.

The principal objects of the President, in adopting this measure, being to repress alleged frauds, and to withhold any countenance or facilities in the power of the government from the monopoly of the public lands in the hands of speculators and capitalists, to the injury of the actual settlers in the new States, and of emigrants in search of new homes, as well as to discourage the ruinous extension of bank issues and bank credits, by which those results are generally supposed to be promoted, your utmost vigilance is required, and relied on, to carry this order into complete execution.

LEVI WOODBURY, *Secretary
of the Treasury.*

127. JACKSON'S VIEWS ON TEXAS

From his message to Congress of December 21, 1836.

*Richardson, Messages and Papers of the Presidents, Vol. 3, pp.
266-269.*

NO steps have been taken by the Executive toward the acknowledgment of the independence of Texas, . .

The acknowledgment of a new state as independent and entitled to a place in the family of nations is at all times an act of great delicacy and responsibility, but more especially so when such state has forcibly separated itself from another of which it had formed an integral part and which still claims dominion over it. . .

It has thus been made known to the world that the uniform policy and practice of the United States is to avoid all interference in disputes which merely relate to the internal government of other nations, and eventually to recognize the authority of the prevailing party, without reference to our particular interests and views or to the merits of the original controversy. . .

.....

...there are circumstances in the relations of the two countries which require us to act on this occasion with even more than our wonted caution. Texas was once claimed as a part of our property, and there are those among our citizens who, always reluctant to abandon that claim, can not but regard with solicitude the prospect of the reunion

of the territory to this country. A large proportion of its civilized inhabitants are emigrants from the United States, speak the same language with ourselves, cherish the same principles, political and religious, and are bound to many of our citizens by ties of friendship and kindred blood; and, more than all, it is known that the people of that country have instituted the same form of government with our own, and have since the close of your last session openly resolved, on the acknowledgment by us of their independence, to seek admission into the Union as one of the Federal States. This last circumstance is a matter of peculiar delicacy, and forces upon us considerations of the gravest character. The title of Texas to the territory she claims is identified with her independence. She asks us to acknowledge that title to the territory, with an avowed design to treat immediately of its transfer to the United States. It becomes us to beware of a too early movement, as it might subject us, however unjustly, to the imputation of seeking to establish the claim of our neighbors to a territory with a view to its subsequent acquisition by ourselves. Prudence, therefore, seems to dictate that we should still stand aloof and maintain our present attitude, if not until Mexico itself or one of the great foreign powers shall recognize the independence of the new Government, at least until the lapse of time or the course of events shall have proved beyond cavil or dispute the ability of the people of that country to maintain their separate sovereignty and to uphold the Government constituted by them. Neither of the contending parties can justly complain of this course. By pursuing it we are but carrying out the long-established policy of our Government—a policy which has secured to us respect and influence abroad and inspired confidence at home.

.....

128. THE RECOGNITION OF TEXAN INDEPENDENCE
BY THE UNITED STATES

Richardson, Messages and Papers of the Presidents, Vol. 3, pp.
281-282.

WASHINGTON, March 3, 1837.

To the Senate of the United States:

IN my message to Congress of the 21st of December last I laid before that body . . . my views concerning the recognition of the independence of Texas, . . . Since that time the subject has been repeatedly discussed in both branches of the Legislature. These discussions have resulted

in the insertion of a clause in the general appropriation law passed by both Houses providing for the outfit and salary of a diplomatic agent to be sent to the Republic of Texas whenever the President of the United States may receive satisfactory evidence that Texas is an independent power . . . , and in the adoption of a resolution by the Senate . . . expressing the opinion that "the State of Texas having established and maintained an independent government capable of performing those duties, foreign and domestic, which appertain to independent governments, and it appearing that there is no longer any reasonable prospect of the successful prosecution of the war by Mexico against said State, it is expedient and proper and in conformity with the laws of nations and the practice of this Government in like cases that the independent political existence of said State be acknowledged by the Government of the United States." Regarding these proceedings as a virtual decision of the question submitted by me to Congress, I think it my duty to acquiesce therein, and therefore I nominate Alcée La Branche, of Louisiana, to be chargé d'affaires to the Republic of Texas.

ANDREW JACKSON.

129. THE ORIGIN OF THE SUBTREASURY

Till 1833 the United States had managed its receipts and disbursements through the Bank of the United States; the substitution of State Banks as fiscal agents of the government in that year, had led to bank speculations based on the government deposits, to credit inflation, and to collapse in the Panic of 1837. As a remedy President Van Buren proposed to a special session of Congress that the government thenceforth have its own officers receive and pay out its funds in cash. The Subtreasury system suggested was enacted in 1840, and reënacted in 1846, remaining the fiscal policy of the government for two generations.

Richardson, Messages and Papers of the Presidents, Vol. 3, pp. 324-346.

WASHINGTON, September 4, 1837.

Fellow-Citizens of the Senate and House of Representatives:

THE act of the 23d of June, 1836, regulating the deposits of the public money and directing the employment of State, District, and Territorial banks for that purpose, made it the duty of the Secretary of the Treasury to discontinue the use of such of them as should at any time refuse to redeem their notes in specie, and to substitute other banks,

provided a sufficient number could be obtained to receive the public deposits upon the terms and conditions therein prescribed. The general and almost simultaneous suspension of specie payments by the banks in May last rendered the performance of this duty imperative in respect to those which had been selected under the act, and made it at the same time impracticable to employ the requisite number of others upon the prescribed conditions. The specific regulations established by Congress for the deposit and safe-keeping of the public moneys having thus unexpectedly become inoperative, I felt it to be my duty to afford you an early opportunity for the exercise of your supervisory powers over the subject.

.....

For the deposit, transfer, and disbursement of the revenue national and State banks have always, with temporary and limited exceptions, been heretofore employed; but although advocates of each system are still to be found, it is apparent that the events of the last few months have greatly augmented the desire, long existing among the people of the United States, to separate the fiscal operations of the Government from those of individuals or corporations.

Again to create a national bank as a fiscal agent would be to disregard the popular will, twice solemnly and unequivocally expressed. On no question of domestic policy is there stronger evidence that the sentiments of a large majority are deliberately fixed, and I can not concur with those who think they see in recent events a proof that these sentiments are, or a reason that they should be, changed.

.....

In transferring its funds from place to place the Government is on the same footing with the private citizen and may resort to the same legal means. It may do so through the medium of bills drawn by itself or purchased from others; and in these operations it may, in a manner undoubtedly constitutional and legitimate, facilitate and assist exchanges of individuals founded on real transactions of trade...

.....

Local banks have been employed for the deposit and distribution of the revenue at all times partially and on three different occasions exclusively:.. On the last occasion, in the year 1833, the employment of the State banks was guarded especially, in every way which experience and caution could suggest. Personal security was required for the safe-keeping and prompt payment of the moneys to be received,

and full returns of their condition were from time to time to be made by the depositories. In the first stages the measure was eminently successful, notwithstanding the violent opposition of the Bank of the United States and the unceasing efforts made to overthrow it. The selected banks performed with fidelity and without any embarrassment to themselves or to the community their engagements to the Government, and the system promised to be permanently useful; but when it became necessary, under the act of June, 1836, to withdraw from them the public money for the purpose of placing it in additional institutions or of transferring it to the States, they found it in many cases inconvenient to comply with the demands of the Treasury, and numerous and pressing applications were made for indulgence or relief. As the installments under the deposit law became payable their own embarrassments and the necessity under which they lay of curtailing their discounts and calling in their debts increased the general distress and contributed, with other causes, to hasten the revulsion in which at length they, in common with the other banks, were fatally involved.

Under these circumstances it becomes our solemn duty to inquire whether there are not in any connection between the Government and banks of issue evils of great magnitude, inherent in its very nature and against which no precautions can effectually guard.

Unforeseen in the organization of the Government and forced on the Treasury by early necessities, the practice of employing banks was in truth from the beginning more a measure of emergency than of sound policy . . . these causes have long since passed away. We have no emergencies that make banks necessary to aid the wants of the Treasury; we have no load of national debt to provide for, and we have on actual deposit a large surplus. No public interest, therefore, now requires the renewal of a connection that circumstances have dissolved. . . Should we, then, connect the Treasury for a fourth time with the local banks, it can only be under a conviction that past failures have arisen from accidental, not inherent, defects.

.....

Since, therefore, experience has shown that to lend the public money to the local banks is hazardous to the operations of the Government, at least of doubtful benefit to the institutions themselves, and productive of disastrous derangement in the business and currency of the country, is it the part of wisdom again to renew the connection?

It is true that such an agency is in many respects convenient to the Treasury, but it is not indispensable. . . The collection, safe-keeping,

transfer, and disbursement of the public money can, it is believed, be well managed by officers of the Government. . .

Surely banks are not more able than the Government to secure the money in their possession against accident, violence, or fraud. The assertion that they are so must assume that a vault in a bank is stronger than a vault in the Treasury, and that directors, cashiers, and clerks not selected by the Government nor under its control are more worthy of confidence than officers selected from the people and responsible to the Government — officers bound by official oaths and bonds for a faithful performance of their duties, and constantly subject to the supervision of Congress.

The difficulties of transfer and the aid heretofore rendered by banks have been less than is usually supposed. . .

The difficulties heretofore existing are, moreover, daily lessened by an increase in the cheapness and facility of communication, and it may be asserted with confidence that the necessary transfers, as well as the safe-keeping and disbursements of the public moneys, can be with safety and convenience accomplished through the agencies of Treasury officers. This opinion has been in some degree confirmed by actual experience since the discontinuance of the banks as fiscal agents in May last — a period which from the embarrassments in commercial intercourse presented obstacles as great as any that may be hereafter apprehended.

.....

The revenue can only be collected by officers appointed by the President with the advice and consent of the Senate. . . The question is then narrowed to the single point whether in the intermediate stage between the collection and disbursement of the public money the agency of banks is necessary to avoid a dangerous extension of the patronage and influence of the Executive. But is it clear that the connection of the Executive with powerful moneyed institutions, capable of ministering to the interests of men in points where they are most accessible to corruption, is less liable to abuse than his constitutional agency in the appointment and control of the few public officers required by the proposed plan? . . It is believed that a considerate and candid investigation of these questions will result in the conviction that the proposed plan is far less liable to objection on the score of Executive patronage and control than any bank agency that has been or can be devised.

.....

M. VAN BUREN.

130. EDUCATION IN MASSACHUSETTS

Massachusetts had been first among the colonies in the establishment of public schools. However, by the following report of January 1, 1838, Horace Mann, one of the great figures in American education, found much room for improvement.

Horace Mann, Lectures and Annual Reports on Education, pp. 384-432, Cambridge, 1867.

TO THE BOARD OF EDUCATION:—
GENTLEMEN:—...

.....

THE object of the Common-School system of Massachusetts was to give to every child in the Commonwealth a free, straight, solid pathway, by which he could walk directly up from the ignorance of an infant to a knowledge of the primary duties of a man; and would acquire a power and an invincible will to discharge them. Have our children such a way? Are they walking in it? .. These are the questions of deep and intense interest, which I have proposed to myself, and upon which I have sought for information and counsel.

.....

There are four cardinal topics, under which all considerations, relating to our Common Schools, naturally arrange themselves. *First* in order is the situation, construction, condition, and *number* of the schoolhouses. . .

Secondly, the manner, whether intelligent and faithful, or inadequate and neglectful, in which school-committeemen discharge their duties.

Thirdly, the interest felt by the community in the education of *all* its children; and the position in which a certain portion of that community stand in relation to the free schools.

Fourthly, the competency of teachers.

First. When it is considered, that more than five-sixths of all the children in the State spend a considerable portion of the most impressible period of their lives in our schoolhouses, the general condition of those buildings, and their influences upon the young, stand forth, at once, as topics of prominence and magnitude. . .

Secondly. School-committee-men, both prudential and superintending, occupy a controlling position in relation to our Common Schools. They are the administrators of the system; . .

Although it is not always in the power of school committees to introduce into the schools devoted and accomplished teachers; yet it is in their power, and it is a most responsible and solemn part of their duty, not to inflict upon the children of a whole district the calamity of an ignorant, ill-tempered, or profane teacher. . .

The law of 1826 requires school committees to obtain evidence of the good moral character of all instructors, and to ascertain, "by personal examination *or otherwise*, their literary qualifications and capacity for the government of schools." In the Revised Statutes, the words "*or otherwise*" were intentionally omitted. Hence the duty of *personal examination* became, in all cases, imperative. So great, however, is the tax imposed by this requirement upon the time of the committees, that from the best information I have been able to obtain, I am led to believe, that in a majority of instances, the examination is either wholly omitted, or is formal and superficial, rather than intent and thorough.

.....

Again; the law expressly requires every teacher to obtain, from the school committee of the town, a certificate of his qualifications "*before he opens the school*." This implies, that it is a violation of duty on the part of a teacher to open a school previously to obtaining such a certificate; and also, on the part of the town committee, to examine a teacher after he has opened his school, for the purpose of giving him a retro-active certificate. . . A change of teachers, when a school has just opened, is, in itself, a great misfortune; because different persons have different regulations and different modes of administering them. . . Suppose, at this moment, when the school ought to be under strong headway, the teacher is presented to the committee for examination and approval; and, in addition to such considerations as those above suggested, the prudential committee enforces the demand of a certificate with the plea, that it is now too late in the season to obtain any better substitute. Now, the painful alternative may be directly presented, either to approve an incompetent teacher, or to reject him and break up the school. . . Between these evils, however, there is a choice; — a badly kept school being worse than none. Yet the first is the branch of the alternative far the most likely to be accepted; . .

From facts which have come to my knowledge, I am constrained to believe, that, in *two-thirds* at least of the towns in the Commonwealth, this provision of the law is more or less departed from. And in the great majority of the cases where an examination is had, previous to the opening of the school, it takes place on the very eve of its

commencement, when the evils above enumerated must partially ensue from a rejection of the candidate, and, therefore, undue motives in favor of granting a certificate must have a proportionate force.

.....

Another duty of the town committee is that of directing what books shall be used in the schools. There is a public evil of great magnitude in the multiplicity and diversity of elementary books. . . The only reason urged by school committees for a non-compliance with the provision of law in relation to selecting books, is, that parents object to the expense of purchasing so many new books as would give uniform sets to the school. . .

It would seem, beforehand, that no duty of school committees could be more acceptable to parents, than that of enforcing a uniformity of books in all the schools of a town. . . There cannot be a doubt, that the aggregate expense of books, for any given number of years, will be much greater in towns where the committee are thwarted by the parents in the discharge of this duty, than in towns where it is duly performed. . .

Notwithstanding the manifest advantages of a performance of this branch of duty, and the grievous mischiefs resulting from its neglect, it is neglected in about *one hundred towns*, or one-third part of the towns in the Commonwealth.

The law further provides, that, in case any scholar shall not be furnished by his parent, master, or guardian, with the requisite books, "he shall be supplied therewith at the expense of the town." Few things seem more preposterous than to send children to school, or to keep them there, for the purpose of *not* studying. . . In not less than forty towns is this duty wholly omitted. Children attend schools, surrounded by temptations to mischief, and without any means of occupation.

An inquiry into the "regulation and discipline" of the schools is another of the duties enjoined upon the town committee; and so important is this duty, in the judgment of the law, that its performance is commanded, not only at the opening and close of the schools, but at each of the monthly visitations. . . The "regulation" of a school comprises the means of insuring as much punctuality and regularity as possible in the attendance of all the children in the district. . . In some towns, the excellent practice of keeping daily registers by the teachers, to be exhibited to the committee at each visitation, of holding the scholars to a strict account for all absences, and of discouraging deser-

tion from the school by all other practicable means, has obviated almost all delinquencies of this kind. In other towns, where the attendance upon school is prompted by no motive, nor enforced by any salutary regulation, habits of idleness and truancy in the present children are laying the foundations of vagrancy, poverty, and vice in the future men.

In connection with this topic... it is material to advert to another provision of the law, which makes it the... duty of school committees, resident ministers of the gospel, and selectmen, "in their several towns, to exert their influence and use their best endeavors, that the youth of their towns shall regularly attend the schools established for their instruction." The success attendant upon the exertions of these officers, to secure a "regular" attendance upon schools, will appear by the following statement:—

The whole number of children, in the 294 towns which have made returns, who are between <i>four</i> and <i>sixteen</i> years of age, is . . .	177,053
... deduct twelve thousand, as the number ... who attend private schools ... and ... not ... the public schools at all, there ... remain	165,053
Whole number of scholars <i>of all ages</i> , attending school in winter	141,837
Whole number of scholars <i>of all ages</i> , attending school in summer	122,889
The <i>average</i> attendance in winter is	111,520
Do. Do. in summer is	94,956
So that the average attendance, in winter, of children <i>of all ages</i> , falls below the whole number of children in the State between 4 and 16 years of age, who depend wholly upon the Common Schools.	53,533
And in summer it falls below that number.	70,097

That is, a portion of the children, dependent wholly upon the Common Schools, absent themselves from the winter school, either permanently or occasionally, equal to a permanent absence of about one-third of their whole number; and a portion absent themselves from the summer schools, either permanently or occasionally, equal to a permanent absence of considerably more than two-fifths of their whole number.

The average length of all the schools in the two hundred and ninety-four towns heard from is six months and twenty-five days each, for the whole year . . . on account of the voluntary absences from school, the winter term is reduced to the scholars, on an average, to about two months and one week, and the summer term to two months and an inconsiderable fraction; or, taking both winter and summer terms, to about four months and one week in the year. And so much as some

scholars, dependent upon the Common School, actually attend school more, just so much do others actually attend less.

... There is some reason to believe, that from omissions in the returns, and, perhaps, from other causes, the total of the children of all ages, attending all the schools, is rather too low. After making every possible allowance, however, the returns exhibit frightful evidence of the number of children, who either do not go to school at all, or go so little as not to be reckoned among the scholars.

.....

Another important duty enjoined upon school committees is the visitation of the schools. Such visitations may be a moral incitement to the scholars, of great efficacy. Advice, encouragement, affectionate persuasion, coming from such of their townsmen as the children have been accustomed to regard with respect or veneration, will sink deep and remain long in their hearts. . . The visitations of the committee break in upon the monotony of the school. They spur the slothful, and reward the emulous and aspiring. . . Such visitations by the committee are not less useful to teachers than to pupils. . . This State employs, annually, in the Common Schools, more than three thousand teachers, at an expense of more than *four hundred and sixty-five thousand dollars*, raised by direct taxation. But they have not one-thousandth part of the supervision which watches the same number of persons, having the care of cattle or spindles, or of the retail of shop-goods. . .

... not in more than fifty or sixty towns, out of the three hundred and five, has there been any pretence of a compliance with the law; . .

It would be unjust to attribute the omission even of this important duty to any peculiar deadness or dormancy, on the part of committees, towards the great interest of our Common Schools. No body of men in the community have performed services for the public, at all comparable to theirs, for so little of the common inducements of honor and emolument. In not more than about one-fifth part of the towns do the committee receive either compensation or re-imbursement. . . Where any thing is given, it rarely exceeds a quarter of the lowest wages of day labor. . . To the inquiry, *Whether paid or not?* the letter of the answer in some cases, and, in many others, the spirit of it, has been, "*Neither paid nor thanked.*" In many cases, where gentlemen have served gratuitously in the office for several years, and have then presented a bill for expenses merely, they have been dropped from the board for the ensuing year: . . Neither does there seem to be any social consideration attached to the station. While the office of selectman and of representative to the general court is often an object of avidity, the

more useful, responsible, and intrinsically honorable office of school-committee-man is shunned as thankless and burdensome...

... Hence it often happens, that the citizens, best qualified for the station, decline its acceptance; or, having accepted it, they abridge its labors, and thereby curtail its usefulness...

.....

... Our law enacts, that every town containing *five hundred* families, .. (... equivalent to *three thousand* inhabitants, .. shall maintain a school, to be kept by a master of competent ability and good morals, "*for the benefit of all the inhabitants of the town,*" ten months, at least, exclusive of vacations, in each year, who, in addition to the branches of learning to be taught in the district schools, shall give instruction in the history of the United States, book-keeping, surveying, geometry, and algebra; and in towns of *four thousand* inhabitants, the master of such school shall be competent to instruct in the Latin and Greek languages, and general history, rhetoric, and logic. In this Commonwealth, there are *forty-three* towns, exclusive of the city of Boston, coming within the provisions above recited... Of these *forty-three* towns, only *fourteen* maintain those schools "*for the benefit of all the inhabitants of the town,*" which the law requires. The other *twenty-nine* towns, in which this provision of the law is wholly disregarded, contain a very large fraction over *one-fifth* part of the whole population of the State, out of Boston... In these twenty-nine towns, which do not keep the "town school" required by law, the sum of forty-seven thousand seven hundred and seventy-six dollars is expended in private schools and academies, while only seventy-four thousand three hundred and thirteen dollars is expended for the support of public schools.

.....

The refusal of the town to maintain the free town school drives a portion of its inhabitants to establish the private school or academy. When established, these institutions tend strongly to diminish the annual appropriations of the town; they draw their ablest recruits from the Common Schools; and, by being able to offer higher compensation, they have a pre-emptive right to the best qualified teachers; while, simultaneously, the district schools are reduced in length, deteriorated in quality, and, to some extent, bereft of talents competent for instruction.

.....

Fourthly. Another component element in the prosperity of schools is the competency of teachers. . .

.....

... The teachers are as good as public opinion has demanded. Their attainments have corresponded with their opportunities; and the supply has answered the demand as well in quality as in number. Yet, in numerous instances, school committees have alleged, in justification of their approval of incompetent persons, the utter impossibility of obtaining better for the compensation offered.

It was stated publicly by a member of the school committee of a town, containing thirty or more school districts, that one-half at least of the teachers approved by them would be rejected, only that it would be in vain to expect better teachers for present remuneration. And, without a change in prices, is it reasonable to expect a change in competency, while talent is invited, through so many other avenues, to emolument and distinction? . . it appears that the average wages per month paid to male teachers throughout the State, inclusive of board, is twenty-five dollars and forty-four cents; and to female teachers, eleven dollars and thirty-eight cents . . it is supposed that two dollars and fifty cents a week for males, and one dollar and fifty cents a week for females, would be a very low estimate for the average price of their board, respectively, throughout the State. . . On this basis of computation, the average wages of male teachers throughout the State is fifteen dollars and forty-four cents a month, exclusive of board, or at the rate of one hundred and eighty-five dollars and twenty-eight cents by the year; — and the average wages of female teachers, exclusive of board, is five dollars and thirty-eight cents a month, or at the rate of sixty-four dollars and fifty-six cents by the year.

.....

It is thought by some, that the State cannot afford any advance upon the present salaries of teachers, which we have seen to be on an average, exclusive of board, fifteen dollars and forty-four cents per month for males, and five dollars and thirty-eight cents for females. The valuation of the State, according to the census of 1830, was \$208,360,407.54. During the past season, it has been repeatedly stated, in several of the public papers, and, so far as I have seen, without contradiction or question, that it is now equal to three hundred millions. The amount raised by taxes the current year, for the support of Common Schools, in the towns heard from, is four hundred and sixty-five thousand two hundred and twenty-eight dollars and four cents, which,

if we assume the correctness of the above estimate respecting the whole property in the State, is less than one mill and six-tenths of a mill on the dollar.

Would it not seem, as though the question were put, not in sobriety, but in derision, if it were asked, whether something more than one six-hundredth part of the welfare of the State might not come from the enlightenment of its intellect and the soundness of its morals? and yet this would, to some extent certainly, involve the question whether the State could afford any increase of its annual appropriations for schools.

.....

From the best information I have been able to obtain, I am led to believe that there are not more than fifty towns in the State, where any thing worthy the name of apparatus is used in schools. . . This great defect will undoubtedly be, to a considerable extent, supplied by the law of April 12, 1837, which authorizes school districts to raise money by taxation, to be expended for the purchase of apparatus and Common-School Libraries, in sums not exceeding thirty dollars the first year, and ten for any succeeding year.

.....

HORACE MANN,

Secretary of the Board of Education.

Boston, January 1, 1838.

131. THE PRE-EMPTION ACT OF 1841

The following act, approved September 4, 1841, really represented a compromise on the public land question between the West and East. The first sections of the act contained a conditional provision, which never went into effect, for the distribution among the states of the proceeds from the sale of public lands. As a sop to the West, the latter sections definitely established in public land policy the principle of pre-emption which had been temporarily in force at various times previous.

Public Statutes at Large of the United States, *Vol. 5, pp. 455-456.*

.....

SEC. 10. *And be it further enacted, That from and after the passage of this act, every . . . man, over the age of twenty-one years, and being a citizen of the United States, or having filed his declaration of inten-*

tion to become a citizen...who since the first day of June, A. D. eighteen hundred and forty, has made...a settlement in person on the public lands to which the Indian title had been...extinguished, and which...shall have been, surveyed prior thereto, and who shall inhabit and improve the same, and who...shall erect a dwelling thereon,.. is hereby, authorized to enter with...the land office... any number of acres not exceeding one hundred and sixty, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land, subject, however, to the following limitations and exceptions: No person shall be entitled to more than one pre-emptive right by virtue of this act; no person who is the proprietor of three hundred and twenty acres of land in any State or Territory of the United States, and no person who shall quit or abandon his residence on his own land to reside on the public land in the same State or Territory, shall acquire any right of pre-emption under this act; no lands included in any reservation...no lands reserved for the support of schools, nor the lands...to which the title has been or may be extinguished by the United States at any time during the operation of this act; no sections of land reserved to the United States alternate to other sections granted to any of the States for the construction of any...public improvement; no sections...included within the limits of any incorporated town; no portions of the public lands which have been selected as the site for a city or town; no parcel or lot of land actually settled and occupied for the purposes of trade and not agriculture; and no lands on which are situated any known salines or mines, shall be liable to entry under and by virtue of the provisions of this act..

SEC. 11. *And be it further enacted*, That when two or more persons shall have settled on the same quarter section of land, the right of pre-emption shall be in him or her who made the first settlement, provided such persons shall conform to the other provisions of this act; and all questions as to the right of pre-emption arising between different settlers shall be settled by the register and receiver of the district within which the land is situated, subject to an appeal to and a revision by the Secretary of the Treasury of the United States.

SEC. 12. *And be it further enacted*, That prior to any entries being made under and by virtue of the provisions of this act, proof of the settlement and improvement thereby required, shall be made to the satisfaction of the register and receiver of the land district in which such lands may lie...and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

SEC. 13. *And be it further enacted*, That before any person claim-

ing the benefit of this act shall be allowed to enter such lands, he or she shall make oath before the receiver or register of the land district in which the land is situated . . . that he or she has never had the benefit of any right of pre-emption under this act; that he or she is not the owner of three hundred and twenty acres of land in any State or Territory of the United States, nor hath he or she settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to his or her own exclusive use or benefit; and that he or she has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he or she might acquire from the government of the United States, should enure in whole or in part, to the benefit of any person except himself or herself; ..

132. THE WEBSTER-ASHBURTON TREATY OF 1842

The following treaty provided a settlement of uncertainties in the international boundary as far west as Oregon. It was ratified August 22, 1842.

Public Statutes at Large of the United States, *Vol. 8*, pp. 572-577.

.....

ARTICLE I.

IT is hereby agreed and declared that the line of boundary shall be as follows: Beginning at the monument at the source of the river St. Croix as designated and agreed to by the commissioners under the fifth article of the treaty of 1794, between the Governments of the United States and Great Britain; thence, north, following the exploring line run and marked by the surveyors of the two Governments in the years 1817 and 1818, under the fifth article of the treaty of Ghent, to its intersection with the river St. John, and to the middle of the channel thereof; thence, up the middle of the main channel of the said river St. John, to the mouth of the river St. Francis; thence, up the middle of the channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of the Lake Pohenagamook; thence, south-westerly, in a straight line, to a point on the northwest branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line, and in the nearest direction — but if the said point shall be found to be less than seven miles from the

nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the river St. Lawrence from those which fall into the river St. John, then the said point shall be made to recede down the said northwest branch of the river St. John, to a point seven miles in a straight line from the said summit or crest; thence, in a straight line, in a course about south, eight degrees west, to the point where the parallel of latitude of $46^{\circ} 25'$ north intersects the southwest branch of the St. John's; thence, southerly, by the said branch, to the source thereof in the highlands at the Metjarmette portage; thence, down along the said highlands which divide the waters which empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the head of Hall's stream; thence, down the middle of said stream, till the line thus run intersects the old line of boundary surveyed and marked by Valentine and Collins, previously to the year 1774, as the 45th degree of north latitude, and which has been known and understood to be the line of actual division between the States of New York and Vermont on one side, and the British province of Canada on the other; and, from said point of intersection, west, along the said dividing line, as heretofore known and understood, to the Iroquois or St. Lawrence river.

ARTICLE II.

It is moreover agreed, that, from the place where the joint commissioners terminated their labors under the sixth article of the treaty of Ghent, to wit: at a point in the Neebish channel, near Muddy Lake, the line shall run into and along the ship channel between St. Joseph and St. Tammany islands, to the division of the channel at or near the head of St. Joseph's island; thence, turning eastwardly and northwardly around the lower end of St. George's or Sugar island, and following the middle of the channel which divides St. George's from St. Joseph's island; thence up the east Neebish channel, nearest to St. George's Island, through the middle of Lake George; thence, west of Jonas' island, into St. Mary's river, to a point in the middle of that river, about one mile above St. George's or Sugar island, so as to appropriate and assign the said island to the United States; thence, adopting the line traced on the maps by the commissioners, through the river St. Mary and Lake Superior, to a point north of Ile Royale, in said lake, one hundred yards to the north and east of Ile Chapeau, which last-mentioned island lies near the northeastern point of Ile Royale, where the line marked by the commissioners terminates; and from the last-mentioned point, southwesterly, through the middle of

the sound between Ile Royale and the northwestern main land, . . to and through the north and south Fowl Lakes, . . along the water communication to Lake Saisaginaga, and through that lake; thence, to and through Cypress Lake, Lac du Bois Blanc, Lac la Croix, Little Vermilion Lake, and Lake Namecan, and through the several smaller lakes, straits, or streams, connecting the lakes here mentioned to that point in Lac la Pluie, or Rainy Lake, at the Chaudière Falls, from which the commissioners traced the line to the most northwestern point of the Lake of the Woods; thence, along the said line, to the said most northwestern point, being in latitude $49^{\circ} 23' 55''$ north, and in longitude $95^{\circ} 14' 38''$ west from the observatory at Greenwich; thence, according to existing treaties, due south to its intersection with the 49th parallel of north latitude, and along that parallel to the Rocky mountains. It being understood that all the water communications and all the usual portages along the line from Lake Superior to the Lake of the Woods, and also Grand portage, from the shore of Lake Superior to the Pigeon river, as now actually used, shall be free and open to the use of the citizens and subjects of both countries.

ARTICLE III.

... it is agreed that, where, by the provisions of the present treaty, the river St. John is declared to be the line of boundary, the navigation of the said river shall be free and open to both parties, and shall in no way be obstructed by either: . .

.....

ARTICLE VII.

It is further agreed, that the channels in the river St. Lawrence, on both sides of the Long Sault islands, and of Barnhart island; the channels in the river Detroit, on both sides of the island Bois Blanc, and between that island and both the American and Canadian shores; and all the several channels and passages between the various islands lying near the junction of the river St. Clair with the lake of that name, shall be equally free and open to the ships, vessels, and boats of both parties.

ARTICLE VIII.

The parties mutually stipulate that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descrip-

tions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations, of each of the two countries, for the suppression of the slave trade; the said squadrons to be independent of each other; but the two Governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces as shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such orders to be communicated by each Government to the other, respectively.

.....

Done, in duplicate, at Washington, the ninth day of August, Anno Domini one thousand eight hundred and forty-two.

DANL. WEBSTER, (L.S.)

ASHBURTON, (L.S.)

133. TREATMENT OF THE INSANE IN MASSACHUSETTS

One of the things against which nineteenth century humanitarians struggled hardest was the barbarous treatment meted out to the insane. Dorothea Dix was one of the most famous workers of her age for humanity in prisons and asylums. In the following Memorial to the Massachusetts legislature of 1843 she told some home truths about the abuse of the insane.

GENTLEMEN, — I respectfully ask to present this Memorial, believing that the *cause*, which actuates to and sanctions so unusual a movement, presents no equivocal claim to public consideration and sympathy. Surrendering to calm and deep convictions of duty my habitual views of what is womanly and becoming, I proceed briefly to explain what has conducted me before you unsolicited and unsustained, trusting, while I do so, that the memorialist will be speedily forgotten in the memorial.

.....

I come to present the strong claims of suffering humanity. I come to place before the Legislature of Massachusetts the condition of the miserable, the desolate, the outcast. I come as the advocate of helpless, forgotten, insane, and idiotic men and women; ..

I proceed, gentlemen, briefly to call your attention to the *present* state

of insane persons confined within this Commonwealth, in *cages, closets, cellars, stalls, pens! Chained, naked, beaten with rods, and lashed into obedience.*

.....

It is the Commonwealth, not its integral parts, that is accountable for most of the abuses which have lately and do still exist. I repeat it, it is defective legislation which perpetuates and multiplies these abuses. In illustration of my subject, I offer the following extracts from my Note-book and Journal:—

Springfield. In the jail, one lunatic woman, furiously mad, a State pauper, improperly situated, both in regard to the prisoners, the keepers, and herself. It is a case of extreme self-forgetfulness and oblivion to all the decencies of life; to describe which would be to repeat only the grossest scenes. She is much worse since leaving Worcester. In the almshouse of the same town is a woman apparently only needing judicious care, and some well-chosen employment, to make it unnecessary to confine her in solitude, in a dreary unfurnished room. Her appeals for employment and companionship are most touching, but the mistress replied “she had no time to attend to her.”

.....

Burlington. A woman, declared to be very insane; decent room and bed; but not allowed to rise oftener, the mistress said, “than every other day: it is too much trouble.”

Concord. A woman from the hospital in a cage in the almshouse. . .

.....

...*Plymouth.* One man stall-caged, from Worcester Hospital. *Scituate.* One man and one woman stall-caged. *West Bridgewater.* Three idiots. Never removed from one room. *Barnstable.* Four females in pens and stalls. Two chained certainly. I think all. Jail, one idiot. . .

Besides the above, I have seen many who, part of the year, are chained or caged. The use of cages all but universal. Hardly a town but can refer to some not distant period of using them; chains are less common; negligences frequent; wilful abuse less frequent than sufferings proceeding from ignorance, or want of consideration. I encountered during the last three months many poor creatures wandering reckless and unprotected through the country. . . These, left on the highways, unfriended and incompetent to control or direct their own movements, sometimes have found refuge in the hospital, and others have not been traced. . .

Danvers. November. Visited the almshouse. . .

Long before reaching the house, wild shouts, snatches of rude songs, imprecations and obscene language, fell upon the ear, proceeding from the occupant of a low building, rather remote from the principal building to which my course was directed. Found the mistress, and was conducted to the place which was called "*the home*" of the *forlorn* maniac, a young woman, exhibiting a condition of neglect and misery blotting out the faintest idea of comfort, and outraging every sentiment of decency. . . She had passed from one degree of violence to another, in swift progress. There she stood, clinging to or beating upon the bars of her caged apartment, the contracted size of which afforded space only for increasing accumulations of filth, a *foul* spectacle. There she stood with naked arms and dishevelled hair, the unwashed frame invested with fragments of unclean garments, the air so extremely offensive, though ventilation was afforded on all sides save one, that it was not possible to remain beyond a few moments without retreating for recovery to the outward air. . .

It is now January. A fortnight since two visitors reported that most wretched outcast as "wallowing in dirty straw, in a place yet more dirty, and without clothing, without fire. Worse cared for than the brutes, and wholly lost to consciousness of decency."

.....

Newburyport. Visited the almshouse in June last. Eighty inmates. Seven insane, one idiotic. . . Two very improperly situated; namely, an insane man, not considered incurable, in an out-building, . . The other subject was a woman in a *cellar*. I desired to see her. Much reluctance was shown. I pressed the request. The master of the house stated that she was *in the cellar*; that she was *dangerous to be approached*; that she had lately attacked his wife, and *was often naked*. I persisted, "If you will not go with me, give me the keys and I will go alone." Thus importuned, the outer doors were opened. I descended the stairs from within. A strange, unnatural noise seemed to proceed from beneath our feet. At the moment I did not much regard it. My conductor proceeded to remove a padlock, while my eye explored the wide space in quest of the poor woman. All for a moment was still. But judge my horror and amazement, when a door to a closet *beneath* the *staircase* was opened, revealing in the imperfect light a female apparently wasted to a skeleton, partially wrapped in blankets, furnished for the narrow bed on which she was sitting. Her countenance furrowed, not by age, but suffering, was the image of distress. In that contracted space, unlighted, unventilated, she poured forth the wailings

of despair. Mournfully she extended her arms and appealed to me: "Why am I consigned to hell? dark — dark — I used to pray, I used to read the Bible — I have done no crime in my heart. I had friends. Why have all forsaken me! — my God, my God, why hast *thou* forsaken me!" . . .

Perhaps it will be inquired how long, how many days or hours, was she imprisoned in these confined limits? *For years!* . .

.....

Gentlemen, I commit to you this sacred cause. Your action upon this subject will affect the present and future condition of hundreds and of thousands.

In this legislation, as in all things, may you exercise that "wisdom which is the breath of the power of God."

Respectfully submitted,

D. L. DIX.

85 Mt. Vernon Street, Boston.

January, 1843.

134. THE ANNEXATION OF TEXAS

Annexation of Texas was pushed forward as an issue by President Tyler from 1843 on. He was anxious to consummate the measure during his term of office. The following joint resolution passed both Houses, by votes of 120-98, and 27-25, and was approved by Tyler March 1, three days before his term expired. The form of joint resolution was adopted because the two thirds majority necessary to pass a treaty through the Senate was not forthcoming.

Public Statutes at Large of the United States, Vol. 5, pp. 797-798.

RESOLVED by the Senate and House of Representatives of the United State of America in Congress assembled, That Congress doth consent that the territory properly included within, and rightfully belonging to the Republic of Texas, may be erected into a new State, to be called the State of Texas, with a republican form of government, to be adopted by the people of said republic, by deputies in convention assembled, with the consent of the existing government, in order that the same may be admitted as one of the States of this Union.

2. *And be it further resolved*, That the foregoing consent of Congress is given upon the following conditions, and with the following

guarantees, to wit: *First*, Said State to be formed, subject to the adjustment by this government of all questions of boundary that may arise with other governments; and the constitution thereof, with the proper evidence of its adoption by the people of said Republic of Texas, shall be transmitted to the President of the United States, to be laid before Congress for its final action, on or before the first day of January, one thousand eight hundred and forty-six. *Second*. Said State, when admitted into the Union, after ceding to the United States, all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, arms, armaments, and all other property and means pertaining to the public defence belonging to said Republic of Texas, shall retain all the public funds, debts, taxes, and dues of every kind, which may belong to or be due and owing said republic; and shall also retain all the vacant and unappropriated lands lying within its limits, to be applied to the payment of the debts and liabilities of said Republic of Texas, and the residue of said lands, after discharging said debts and liabilities, to be disposed of as said State may direct; but in no event are said debts and liabilities to become a charge upon the Government of the United States. *Third*. New States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be entitled to admission under the provisions of the federal constitution. And such States as may be formed out of that portion of said territory lying south of thirty-six degrees thirty minutes north latitude, commonly known as the Missouri compromise line, shall be admitted into the Union with or without slavery, as the people of each State asking admission may desire. And in such State or States as shall be formed out of said territory north of said Missouri compromise line, slavery, or involuntary servitude, (except for crime,) shall be prohibited.

3. *And be it further resolved*, That if the President of the United States shall in his judgment and discretion deem it most advisable, instead of proceeding to submit the foregoing resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that Republic; then,

Be it resolved, That a State, to be formed out of the present Republic of Texas, with suitable extent and boundaries, and with two representatives in Congress, until the next apportionment of representation, shall be admitted into the Union, by virtue of this act, on an equal footing with the existing States, as soon as the terms and conditions of such admission, and the cession of the remaining Texian territory to the United States shall be agreed upon by the Governments of Texas

and the United States: And that the sum of one hundred thousand dollars be, and the same is hereby, appropriated to defray the expenses of missions and negotiations, to agree upon the terms of said admission and cession, either by treaty to be submitted to the Senate, or by articles to be submitted to the two houses of Congress, as the President may direct.

APPROVED, March 1, 1845.

135. THE OREGON TREATY

On the eve of her war with Mexico over Texan boundary claims, the United States compromised with Great Britain on claims to Oregon. The settlement obtained was much more favorable than the British government had seemed disposed to concede.

Statutes at Large of the United States, Vol. 9, pp. 869-870.

TREATY WITH GREAT BRITAIN, IN REGARD TO LIMITS WESTWARD OF THE ROCKY MOUNTAINS.

ARTICLE I.

From the point on the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of her Britannic Majesty shall be continued westward along the said forty-ninth parallel of north latitude to the middle of the channel which separates the continent from Vancouver's Island, and thence southerly through the middle of the said channel, and of Fuca's Straits, to the Pacific Ocean: *Provided, however,* That the navigation of the whole of the said channel and straits, south of the forty-ninth parallel of north latitude, remain free and open to both parties.

ARTICLE II.

From the point at which the forty-ninth parallel of north latitude shall be found to intersect the great northern branch of the Columbia River, the navigation of the said branch shall be free and open to the Hudson's Bay Company, and to all British subjects trading with the same, to the point where the said branch meets the main stream of

the Columbia, and thence down the said main stream to the ocean, with free access into and through the said river or rivers, it being understood that all the usual portages along the line thus described shall, in like manner, be free and open. In navigating the said river or rivers, British subjects, with their goods and produce, shall be treated on the same footing as citizens of the United States; it being, however, always understood that nothing in this article shall be construed as preventing, or intended to prevent, the government of the United States from making any regulations respecting the navigation of the said river or rivers not inconsistent with the present treaty.

.....

In witness whereof, the respective Plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the fifteenth day of June, in the year of our Lord one thousand eight hundred and forty-six.

JAMES BUCHANAN. (L.S.)

RICHARD PAKENHAM. (L.S.)

136. THE WILMOT PROVISIO

The following extracts in the Congressional Globe for August 8, 1846, illustrate the appearance of the Wilmot Proviso.

The Congressional Globe, 29 Congress, 1 session, pp. 1213-1218.
Washington, 1846.

THE Committee of the Whole on the state of the Union resumed its session, (Mr. NORRIS in the chair.)

MESSAGE — FOREIGN INTERCOURSE

On motion of Mr. McKAY the committee proceeded... to the consideration of the President's message, and of the following bill, introduced this morning by Mr. McKAY:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a sum of \$2,000,000, in addition to the provision heretofore made, be, and the same is hereby, appropriated, for the purpose of defraying any extraordinary expenses which may be incurred in the intercourse between the United States and foreign nations, to be paid out of any money in the treasury not otherwise appropriated, and to be applied under the

direction of the President of the United States, who shall cause an account of the expenditure thereof to be laid before Congress as soon as may be.

.....

Mr. WILMOT regretted that the President had not disclosed his views. He disliked to act in the dark on this or any subject. If this had been done, and it had been inexpedient to have received and deliberated upon it publicly, they might have gone into secret session. He would vote for this appropriation in case the amendment he intended to offer was adopted. He disagreed with some of his friends that this was an unnecessary war; he believed it a necessary and proper war. He believed it not to be a war of conquest; if so, he was opposed to it now and hereafter. If this country was now to be forced into such a war, he pronounced it against the spirit of the age, against the holy precepts of our religion; he was opposed to it in every form and shape. But he trusted it was not to be a war of conquest. He trusted that the President was sincerely ready to negotiate for an honorable peace.

But the President asked for two millions of dollars for concessions which Mexico was to make. We claim the Rio Grande as our boundary—that was the main cause of the war. Are we now to purchase what we claim as a matter of right? Certainly she was not to be paid for the debt she owes our citizens.

Mr. W. took it, therefore, that the President looked to the acquisition of territory in that quarter. To this he had no objection, provided it were done on proper conditions. On the contrary, he was most earnestly desirous that a portion of territory on the Pacific, including the bay of San Francisco, should come into our possession by fair and honorable means, by purchase or negotiation—not by conquest.

But whatever territory might be acquired, he declared himself opposed, now and forever, to the extension of this “peculiar institution” that belongs to the South. He referred to the annexation of Texas, and to his affirmative vote on the proposition connected with it at this session; he was for taking it as it was; slavery had already been established there. But if free territory comes in, God forbid that he should be the means of planting this institution upon it.

.....

Mr. SIMS, of South Carolina, then obtained the floor, ..

.....

...He regretted that the gentleman from Pennsylvania [Mr. WILMOT] had chosen to mingle with the question the exciting topic

of slavery by the amendment which he had introduced; that he (Mr. S.) regarded the agitation of that subject as premature, and not properly connected with the appropriation asked for at this time. If this amendment should be adopted, he would be constrained to vote against the bill. He feared it was offered to defeat the appropriation. He regretted the factious opposition manifested...

.....

Mr. McKAY withdrew the bill moved by him, and submitted a modified proposition, as follows:

Whereas a state of war now exists between the United States and the Republic of Mexico, which it is desirable should be speedily terminated upon terms just and honorable to both nations: And whereas assurances have heretofore been given to the Government of Mexico that it was the desire of the President to settle all questions between the two countries on the most liberal and satisfactory terms, according to the rights of each and the mutual interests and security of the two countries: And whereas the President may be able to conclude a treaty of peace with the Republic of Mexico prior to the next session of Congress, if means for that object are at his disposal: And whereas, in the adjustment of so many complicated questions as now exist between the two countries, it may possibly happen that an expenditure of money will be called for by the stipulations of any treaty which may be entered into: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of thirty thousand dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to enable the President to enter upon negotiations for the restoration of peace with Mexico, whenever it shall be in his power to do so.

SEC. 2. *And be it further enacted,* That the sum of two millions of dollars be, and the same is hereby, appropriated, out of any money in the treasury not otherwise appropriated, to enable the President to conclude a treaty of peace with the Republic of Mexico, to be used by him in the event that said treaty, when signed by the authorized agents of the two Governments, and being ratified by Mexico, shall call for the expenditure of the same, or any part thereof, full and accurate accounts for which expenditure shall be by him transmitted to Congress at as early a day as practicable.

.....

Mr. WILMOT moved an amendment, to add at the end of Mr. McKAY'S modified bill the following:

Provided, That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue

of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted.

.....

Mr. WICK moved to amend the amendment by inserting therein after the word "territory," the words "north of 36° 30' north latitude."

The amendment to the amendment was disagreed to — ayes 54, noes 89.

The question recurring on the original amendment of Mr. WILMOT, tellers were asked and ordered; and, the question being taken, it was decided in the affirmative — ayes 83, noes 64.

So the amendment was adopted.

.....

And the question being on the passage of the bill,

Mr. BRINKERHOFF demanded the previous question; which was seconded, and the main question was ordered.

Mr. HOPKINS demanded the yeas and nays; which were refused.

Tellers were then called for and refused.

And the question, "Shall this bill pass?" being taken, by division of the House, was decided in the affirmative — ayes 87, noes 64.

So the bill was passed.

137. THE WHIGS AND THE MEXICAN WAR

In great measure for reasons of supposed party expediency, the Whigs in Congress elected to oppose the Mexican War, condemning Polk's administration in the harshest terms for having entered into it. Polk, himself, considered such opposition purely factious. The following speeches, made on February 11 and 12 of 1847, state the causes for the opposition of the Northern and Southern Whigs. Corwin and Stephens were respectively from Ohio and Georgia.

Congressional Globe, Vol. 16, Appendix, pp. 237-246, 395-399.

MR. CORWIN said:

.....

... Mr. President, it is a fearful responsibility we have assumed; engaged in flagrant, desolating war with a neighboring republic, to us

thirty millions of God's creatures look up for that moderated wisdom which, if possible, may stay the march of misery and restore to them, if it may be so, mutual feelings of good will with all the best blessings of peace.

.....

... The President, without asking the consent of Congress, involves us in war, and the majority here, without reference to the justice or necessity of the war, call upon us to grant men and money at the pleasure of the President, who they say is charged with the duty of carrying on the war and responsible for its result. If we grant the means thus demanded the President can carry forward this war for any end or from any motive without limit of time or place.

.....

... I looked to the President's account of it, and he tells me that it was a war for the defense of the territory of the United States. I found it written in that message, Mr. President, that this war was not sought nor forced upon Mexico by the people of the United States... Sir, I know that the people of the United States neither sought nor forced Mexico into this war, and yet I know that the President of the United States, with the command of your standing Army, did seek that war, and that he forced war upon Mexico...

.....

...how will it be pretended that that country lying between the Nueces and the Del Norte, to which your Army was ordered and of which it took possession, was subject to Texan law and not Mexican law? .. Do you hear of any... Anglo-Saxon making cotton there with their negroes? No; you hear of Mexicans residing peacefully there, but fleeing from their cotton-fields at the approach of your Army... If there were a Texas population on the east bank of the Rio Grande why did not General Taylor hear something of those Texans hailing the advent of the American Army, coming to protect them from the ravages of the Mexicans and the more murderous onslaught of the neighboring savages?

Do you hear anything of that? No! On the contrary, the population fled at the approach of your Army. In God's name I wish to know if it has come to this, that when an American army goes to protect American citizens on American territory they flee from it as if from the most barbarous enemy? Yet such is the ridiculous assumption of those

who pretend that on the east bank of the Rio Grande where your arms took possession there were Texas population, Texas power, Texas laws, and American (United States) power and law...

.....

...What is the territory, Mr. President, which you propose to wrest from Mexico? It is consecrated to the heart of the Mexican by many a well-fought battle with his old Castilian master. His Bunker Hills and Saratogas and Yorktowns are there! The Mexican can say, "There I bled for liberty; and shall I surrender that consecrated home of my affections to the Anglo-Saxon invaders? What do they want with it? .. The Senator from Michigan says he must have this. Why, my worthy Christian brother, on what principle of justice? "I want room!"

Sir, look at this pretense of want of room. With twenty million people you have about one thousand million acres of land, inviting settlement by every conceivable argument, bringing them down to a quarter of a dollar an acre, and allowing every man to squat where he pleases. But the Senator from Michigan says we will be two hundred millions in a few years, and we want room. If I were a Mexican I would tell you, "Have you not room in your own country to bury your dead men? If you come into mine we will greet you with bloody hands and welcome you to hospitable graves."

Why, says the chairman of this Committee on Foreign Relations, it is the most reasonable thing in the world. We ought to have the Bay of San Francisco. Why? Because it is the best harbor on the Pacific! It has been my fortune, Mr. President, to have practiced a good deal in criminal courts in the course of my life, but I never yet heard a thief arraigned for stealing a horse plead that it was the best horse that he could find in the country! We want California? What for? Why, says the Senator from Michigan, we will have it; and the Senator from South Carolina, with a very mistaken view, I think, of policy, says you cannot keep our people from going there. I do not desire to prevent them. Let them go and seek their happiness in whatever country or clime it pleases them. All I ask of them is not to require this Government to protect them with that banner consecrated to war waged for principles; eternal, enduring truth... But you still say you want room for your people. This has been the plea of every robber chief from Nimrod to the present hour. I dare say when Tamerlane descended from his throne built of seventy thousand human skulls, and marched his ferocious battalions to further slaughter, I dare say he said, "I want room." .. Alexander, too, the mighty "Macedonian madman," when

he wandered with his Greeks to the plains of India, and fought a bloody battle on the very ground where recently England and the Sikhs engaged in strife for "room" was, no doubt, in quest of some California there... Mr. President, do you remember the last chapter in that history? It is soon read... Ammon's son, (so was Alexander named,) after all his victories, died drunk in Babylon! The vast empire he conquered to "get room" because the prey of the generals he had trained; it was disparted, torn to pieces, and so ended...

.....

Mr. President, if the history of our race has established any truth it is but a confirmation of what is written, "the way of the transgressor is hard." Inordinate ambition, wantoning in power and spurning the humble maxims of justice, has, ever has and ever shall end in ruin... It is my fear, my fixed belief, that in this invasion, this war with Mexico, we have forgotten this vital truth...

But, Mr. President, if further acquisition of territory is to be the result either of conquest or treaty then I scarcely know which should be preferred, eternal war with Mexico or the hazards of internal commotion at home, which last I fear may come if another province is to be added to our territory. There is one topic connected with this subject which I tremble when I approach, and yet I cannot forbear to notice it... I allude to the question of slavery. Opposition to its further extension, it must be obvious to every one, is a deeply rooted determination with men of all parties in what we call the non-slaveholding States. New York, Pennsylvania, and Ohio, three of the most powerful, have already sent their legislative instructions here. So it will be, I doubt not, in all the rest... How is it in the South? Can it be expected that they should expend in common their blood and their treasure in the acquisition of immense territory, and then willingly forego the right to carry thither their slaves and inhabit the conquered country if they please to do so?

Sir, I know the feelings and opinions of the South too well to calculate on this. Nay, I believe they would even contend to any extremity for the mere right had they no wish to exert it. I believe, and I confess I tremble when the conviction presses upon me, that there is equal obstinacy on both sides of this fearful question... Should we prosecute this war another moment or expend one dollar in the purchase or conquest of a single acre of Mexican land the North and the South are brought into collision on a point where neither will yield. Who can

foresee or foretell the result? Who so bold or reckless as to look such a conflict in the face unmoved? ..

.....

Mr. STEPHENS said:

Mr. CHAIRMAN: It is useless to attempt to disguise the fact or to affect to be blind to the truth that this country is now surrounded by difficulties of no ordinary magnitude, and fast approaching others which threaten to be far greater and more perilous than any which have ever been encountered since the foundation of the Government.

.....

The country which one year ago was quiet and prosperous, at peace with the world, and smiling under the profusion of Heaven's bountiful munificence, by the sole and unauthorized act of the President has been plunged into an unnecessary and expensive war, the end and fearful consequences of which no man can foresee. And to suppress inquiry and silence all opposition to conduct so monstrous an executive ukase has been sent forth strongly intimating if not clearly threatening the charge of treason against all who may dare to call in question the wisdom or propriety of his measures. . . The new and strange doctrine is now put forth that Congress has nothing to do with the conduct of the war; that the President is entitled to its uncontrolled management; that we can do nothing but vote men and money to whatever amount and extent his folly and caprice may dictate. . . Sir, this doctrine might suit the despotisms of Europe where the subjects of a Crown know no duty but to obey and have no rights but to submit to royal dictation. But it is to be seen whether the free people of this country have so soon forgotten the principles of their ancestors as to be so easily awed by the arrogance of power. It is to be seen whether they have so far lost the spirit of their sires as tamely, quietly, and silently to permit themselves to be treated as the humble vassals of such a self-constituted lordling.

.....

The absorbing topic, both in this House and the country, is the war with Mexico. This is the subject which above all others demands our consideration. . . I do not at this time intend to discuss the causes of the war or to recount the blunders and folly of the President connected with its origin. . . The President may repeat as often as he pleases that it was "unavoidably forced upon us;" but such a repetition can never change the fact. It is a war of his own making and in violation of the Constitution of the country; and so history, I doubt not, will make up the record if truth be fairly and faithfully registered in her chronicles.

But, sir, the war exists, and however improperly, unwisely, or wickedly it was commenced it must be brought to a termination, a speedy and successful termination. By the unskillfulness or faithlessness of our pilot we have been run upon the breakers, and the only practical inquiry now is how we can be extricated in the shortest time and with the greatest safety. This is the grave question which now engages public attention, and which as patriots and statesmen we ought to decide. . . All wars to be just must have some distinct and legitimate objects to be accomplished, some rights to be defended and secured, or some wrongs to be redressed; and one of the strangest and most singular circumstances attending this war is that though it has lasted upward of eight months, at a cost of many million dollars and the sacrifice of many valuable lives, both in battle and by the diseases of the camp, no man can tell for what object it is prosecuted; and it is to be doubted whether any man save the President and his Cabinet knows the real and secret designs that provoked its existence. . .

.....

Now, Mr. Chairman, I undertake to say that however this war was commenced . . . its continuance can be justified upon but two grounds only; and if gentlemen know of any others I should like to hear them openly declared. These two grounds relate to the settlement of the question of boundary, which is the only ostensible cause of the war, and the payment or recognition on the part of Mexico of her debt, acknowledged by way of indemnity for the claims of our citizens. The first is the main one; the other secondary and resulting, as I have said, as a necessary incident attending a state of war. And when gentlemen speak of an honorable peace. . . I wish to know what they mean by those terms? . . . But beyond this, the attainment of a peace upon the terms I have mentioned, I shall never go. And if gentlemen upon this floor or the President have any other purpose covered under the terms of "an honorable peace," what is it? Do they suppose that the people of this country hold in such slight remembrance the principles upon which their Government is founded as to be prepared to sustain a war waged for an object no higher or nobler than that which springs from an unholy lust of dominion and the spread of empire? Do they suppose that this country, which has not yet arrived to the full vigor of manhood, has so soon forgotten the lessons of its early instruction as to be ready to enter upon that wild career of military prowess which has been the bane of so many nations which have gone before us, and has been the destruction of all former republics? If this be the calculation of those who mean by "an honorable peace" nothing short of exacting

from Mexico some of her departments or States be it so; but I beg to protest against it, not only for myself but for the country also.

.....

And besides the reasons already offered, which of themselves would ever control me, there are others of great importance, growing out of the nature of the union of these States, which should be gravely considered before bringing in this new element of strife. . . This Wilmot proviso and the resolutions from the Legislatures of the States of New York and Pennsylvania and Ohio, all of the same character and import, speak a language that cannot be mistaken, a language of warning upon this subject, and which the country if wise would do well to heed in time. They show a fixed determination on the part of the North, which is now in the majority in this House and ever will be hereafter, that if territory is acquired the institutions of the South shall be forever excluded from its limits; this is to be the condition attached to the bill upon your table. What is to be the result of this matter? Will the South submit to this restriction? Will the North ultimately yield? Or shall these two great sections of the Union be arrayed against each other? When the elements of discord are fully aroused who shall direct the storm? . . Upon the subject of slavery, about which so much has been said in this debate, I shall say but little. I do not think it necessary to enter into a defense of the character of the people of my section of the Union against the arguments of those who have been pleased to denounce that institution as wicked and sinful. It is sufficient for me and for them that the morality of that institution stands upon a basis as firm as the Bible, and by that code of morals we are content to abide until a better be furnished. . .

As a political institution I shall never argue the question of slavery here. I plead to the jurisdiction. The subject belongs exclusively to the States. There the Constitution wisely left it, and there Congress, if it acts wisely, will let it remain. Whether the South will submit to the threatened proscription it is not my province to say. . . But as I value this Union. . . I invoke gentlemen not to put this principle to the test. I have great confidence in the strength of the Union so long as sectional feelings and prejudices are kept quiet and undisturbed, so long as good neighborhood and harmony are preserved among the States; but I have no disposition to test its strength by running against that rock upon which Mr. Jefferson predicted we should be finally wrecked. . .

Mr. Chairman, it was asked by him who spake as man never spake, "What shall a man be profited if he gain the whole world and lose his own soul?" And may I not with reverence ask what we shall be

profited as a nation if we gain any part or even the whole of Mexico and lose the Union, the soul of our political existence? The Union is not only the life but the soul of these States. It is this that gives them animation, vigor, power, prosperity, greatness, and renown; and from this alone springs our hopes of immortality as a common people.

138. SOUTHERN DEFENSES OF SLAVERY

Down to the year 1830, strong elements in both Southern and Northern opinion, deplored the existence of slavery as a great evil. Then the rise of Garrisonian abolitionism caused the South in increasing measure to resent all criticism of its peculiar institution. This attitude became more marked after the rise of the free soil movement in the North convinced the South that there a large section of opinion was hostile to slavery. The following speech, delivered February 11, 1847, by a North Carolina Congressman, represents the Southern defense of slavery and the reaction against the Wilmot Proviso.

Congressional Globe. 29 Congress, 2 session, Vol. 16, pp. 383-386.

MR. DOBBIN next addressed the committee as follows:

Mr. CHAIRMAN: I do not rise upon this occasion for the purpose of republishing another edition of the history of the Mexican war. . .

But, Mr. Chairman, there is a war of recent origin; upon the origin, the rise, and the progress of which, I do propose to make some remarks this morning. I mean the war recently waged upon the reputation, the constitutional rights, and domestic institutions of the southern States. . .

.....

... Sir, I distinctly take the position, *that slaves are recognised as property under our Constitution; that in that Constitution safeguards to protect this peculiar property are expressly contained; and that without the incorporation of these safeguards, this glorious Union could not have been consummated.* This Federal Government exists under the Constitution; it derives all its power *from* the Constitution; it must be administered by rules prescribed solely *by* that Constitution, and possesses no powers but those "expressly delegated to it." And I contend, sir, that any act of Congress which prohibits the citizens of the southern States from carrying their slave property with them into territory the common property of the United States, *violates most palpably the faith and compromises of the Constitution;* is unwarranted by any clause contained in that instrument; is sectional, unequal, oppressive; because

while it announces to the citizens of *one* section of the Union that they may go and enjoy this territory with all their property, in the same breath it notifies the citizens of another section if they go and settle there they must leave their slave property behind them, in which property they have invested millions of money under the sacred guarantees of the Constitution.

And here I am met at the very threshold by gentlemen, who not only deny that slaves are recognised as property, but repel the charge with eloquent indignation, as a slander upon that free Constitution, and a libel upon the wise and good men who framed it. Here I take issue with them... We read in this very Constitution a clause which protects the slaveholder, and enables him to recover the slave which escapes into another State; another clause establishes the basis of representation by which negroes are not to be counted merely as persons, but to assume the mixed character of persons and property... And, Mr. Chairman, what else do we find? We find that these good and wise men not only did *this*, but they permitted the Constitution to tolerate, and countenance the idea of our people employing their vessels, manning their ships, and embarking in what is denounced as "the nefarious traffic in human flesh." We find these good and wise men tolerated the idea of extending and increasing slavery, by *expressly providing for the importation of slaves for twenty years*...

.....

And not only are slaves recognised by the *Constitution* as property, but they are so recognised in the first treaty of peace, in 1783; and in our treaty at Ghent with Great Britain, an article was incorporated, making an express provision to indemnify those of our citizens who lost their slave property; and if you examine into the Journals of Congress and the reports of committees, you will see that bills were reported and passed, appropriating moneys to those whose slaves were lost. And I understand it is the fact, that Mr. ADAMS, the venerable member from Massachusetts, himself introduced that article into the treaty, and so avowed on the floor of Congress.

.....

But, Mr. Chairman, I will not proceed further with this argument in regard to the Constitution. I deem it demonstrable, that the sovereignty over the Territories, the common property of the United States, is in the people of the States, and that this Government has no other power over them but that which is expressly delegated. And the power contended for is certainly *not* delegated. And the reader of the

Constitution will observe, that the clause which gives Congress power "to exercise exclusive legislation, in all cases whatsoever, over such District (not exceeding ten miles square) as may become the seat of Government," is much stronger than the clause which relates to other Territories belonging to the United States. In the first, to Congress is granted "*exclusive* legislation;" and yet many of the wisest statesmen doubt the power of Congress to interfere with the subject of slavery in this District; while *now*, it is here boldly contended that Congress derives power to prohibit slave property in the *other* Territories from the words, "*needful regulations*."

I ask, even if the Constitution does grant us the power, is it expedient and just to use it? Why do gentlemen press this question upon us? What patriotic motive or consideration is there that demands it? What is there in the crisis which calls for it? What motive can prompt them? What object can they accomplish — what good effect by it? Do gentlemen tell me slavery is a sin? Sir, I confess my astonishment at avowals I have listened to lately. I heard the gentleman from New York [Mr. WOOD] earnestly denounce it as contrary to the Word of God, and assert that "the mantle of Christianity could not be thrown around it." He invoked the aid of Him who "spake as never man spake," to sustain him in his position against it: he went to the Word of God, and *almost* went as far as a gentleman who had preceded him, who con-signed us, in the most solemn manner, not only to degradation while we live, but to eternal perdition when we die.

...I ask gentlemen to point out the scriptural denunciation of slavery. Where, in the Old or New Testament, do you find it? .. Does he infer from that commandment which proclaims the seventh day as the Sabbath of the Lord, and saith to man, "in it thou shalt not do any work, thy *man-servant* nor thy *maid-servant*?" Does he infer it from that other commandment which saith "thou shalt not covet thy neighbor's house, nor his *man-servant*, nor his *maid-servant*, nor anything that is thy neighbor's?" Or is it found in the New Testament, where the Apostle preaches thus: "Servants, be obedient to them that are your masters according to the flesh with fear and trembling?" Is it found in the same Apostle's admonition to masters to act well their part, "knowing that your Master also is in Heaven?" Is it found in the Epistle to Timothy: "Let as many servants as are under the yoke count their own masters worthy of all honor, that the name of God and his doctrine be not blasphemed?"

... Did our Saviour, in his holy teachings, warn man that he endangered his salvation if he held slave property? Did he preach the necessity of its abolition? of its sinfulness? Have the honorable gentle-

men perused the epistle of Paul to Philemon, which was sent by Onesimus, a *runaway slave*? Paul sent him home to his Christian master; and in his epistle to Philemon, he says of Onesimus, "Whom I would have retained with me; but without thy mind would I do nothing." Sir, if Paul, under Divine inspiration, thought slavery a crime, he would have told Philemon, "Sir, remember you must die, and are accountable to God; take off his shackles, and liberate your slave." No; he recommends him to his mercy, and sent him back to his master, because, he said, he had no authority to keep him — *a very useful lesson, by which our friends in some portions of the Union might profit!* . . . And I now insist that gentlemen, before they denounce us and consign us to infamy and eternal perdition, invoking the Word of God against us, shall first read that holy book, and know what it contains.

. . . I refer to gentlemen who delivered studied pieces of declamation against our domestic institutions, who thus invoked the Word of God . . . who read to us an act of a southern Legislature preventing the slaves from being taught to read and write, and said, "the eye of the intellect was put out by this system." And here I would remark, that this act of Assembly was rendered necessary on account of just such movements as this, calculated to put mischief in the minds of the slave, and making rigid laws indispensable. . .

But it is said that these efforts are made to benefit the negro. I hold, Mr. Chairman, that *the black and white races cannot coexist under the same government upon an equal footing*. I challenge anybody to controvert it. . . The right of suffrage is rarely given to them in the North, and in the State which my friend near me in part represents, (New York,) when the attempt was recently made to give him this right, the proposition was rejected with scorn, by one hundred thousand majority.

But I say, if you attempt to liberate these slaves in our country, in our limited territory, you can do them no good, and you do the whites essential harm. . . Diffusion will come nearer promoting ultimate peaceful emancipation than any movement that can be made. And coming to the South, southern gentlemen will bear me out, that the crime committed in the South is by the free negro, not by the slave. . .

.....

But gentlemen say they want to elevate the white man at the South; save us, sir, from the elevation to result from turning loose three millions of slaves in our midst. Mr. Chairman, let us take care of ourselves. We know our responsibility to God and man, and we will act in view of it.

139. THE TREATY OF GUADALUPE HIDALGO

The treaty, ending the Mexican War, was signed February 2, 1848, and ratification completed May 30, 1848. Mexico had so far disintegrated under the strain of war that it was a serious question whether any government could maintain itself long enough to negotiate and conclude a peace.

Statutes at Large of the United States, Vol. 9, pp. 922-942.

TREATY OF PEACE, FRIENDSHIP, LIMITS, AND
SETTLEMENT WITH THE REPUBLIC OF MEXICO.

ARTICLE I.

THERE shall be firm and universal peace between the United States of America and the Mexican republic, and between their respective countries, territories, cities, towns, and people, without exception of places or persons.

.....

ARTICLE V.

The boundary line between the two republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river, following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico; thence, westwardly, along the whole southern boundary of New Mexico (which runs north of the town called *Paso*) to its western termination; thence, northward, along the western line of New Mexico, until it intersects the first branch of the River Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same;) thence down the middle of the said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

.....

ARTICLE VII.

The River Gila, and the part of the Rio Bravo del Norte lying below the southern boundary of New Mexico, being, agreeably to the

fifth article, divided in the middle between the two republics, the navigation of the Gila and of the Bravo below said boundary shall be free and common to the vessels and citizens of both countries; and neither shall, without the consent of the other, construct any work that may impede or interrupt, in whole or in part, the exercise of this right; not even for the purpose of favoring new methods of navigation. . .

ARTICLE VIII.

Mexicans now established in territories previously belonging to Mexico, and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican republic, retaining the property which they possess in the said territories, or disposing thereof, and removing the proceeds wherever they please, without their being subjected, on this account, to any contribution, tax, or charge whatever.

Those who shall prefer to remain in the said territories, may either retain the title and rights of Mexican citizens, or acquire those of citizens of the United States. But they shall be under the obligation to make their election within one year from the date of the exchange of ratifications of this treaty; and those who shall remain in the said territories after the expiration of that year, without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States.

ARTICLE IX.

Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican republic, conformably with what is stipulated in the preceding article, shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the constitution; and in the mean time shall be maintained and protected in the free enjoyment of their liberty and property, and secured in the free exercise of their religion without restriction.

.....

ARTICLE XII.

In consideration of the extension acquired by the boundaries of the United States, as defined in the fifth article of the present treaty, the

government of the United States engages to pay to that of the Mexican republic the sum of fifteen millions of dollars.

ARTICLE XIII.

The United States engage, moreover, to assume and pay to the claimants all the amounts now due them, and those hereafter to become due, by reason of the claims already liquidated and decided against the Mexican republic, under the conventions between the two republics severally concluded on the eleventh day of April, eighteen hundred and thirty-nine, and on the thirtieth day of January, eighteen hundred and forty-three; so that the Mexican republic shall be absolutely exempt, for the future, from all expense whatever on account of the said claims.

ARTICLE XIV.

The United States do furthermore discharge the Mexican republic from all claims of citizens of the United States, not heretofore decided against the Mexican government, which may have arisen previously to the date of the signature of this treaty; which discharge shall be final and perpetual, whether the said claims be rejected or be allowed by the board of commissioners provided for in the following article, and whatever shall be the total amount of those allowed.

.....

In faith whereof, we, the respective plenipotentiaries, have signed this treaty of peace, friendship, limits, and settlement; and have hereunto affixed our seals respectively. Done in quintuplicate, at the city of Guadalupe Hidalgo, on the second day of February, in the year of our Lord one thousand eight hundred and forty-eight.

N. P. TRIST,	(L.S.)
LUIS G. CUEVAS,	(L.S.)
BERNARDO COUTO,	(L.S.)
MIGL. ATRISTAIN,	(L.S.)

140. THE SOUTH AND THE WILMOT PROVISIO

The manifest determination of the majority in the North to adopt the Wilmot Proviso as its sectional policy, provoked Southern opinion to a heat which was only allayed by the acceptance of the Compromise of

1850 by the moderate elements in both sections. The following speeches of December 13, 1849, give some idea of the length to which even responsible statesmen like Toombs of Georgia were ready to go. Meade was from Virginia.

Congressional Globe, 31 Congress, 1 session, Vol. 19, Part 1, pp. 26-28.

MR. MEADE said:..

But, sir, if the organization of this House is to be followed by the passage of these bills — if these outrages are to be committed upon my people, I trust in God, sir, that my eyes have rested upon the last Speaker of the House of Representatives. This expression is not the ebullition of feeling; it contains sentiments I have well considered and often expressed, publicly and privately. They are entertained in common with the people I represent. And I tell gentlemen, if these measures be passed, there will be but one determination at the South — one solemn resolve to defend their homes and maintain their honor. Let this issue come when it may, and you will find every southern sinew converted into a spring of steel. I do not utter this as a treat. I am proud to believe that our race on both sides of the line are equally brave; but gentlemen will find a difference between men contending for their firesides, and the robbers who are seeking to despoil them of their rights, and degrade them before the world. If there be any southern man who would refuse to stand by his country in such an emergency, ["There are none," said several voices,] he would not merely be execrated by his own people, but his own children would heap curses upon his grave.

.....

Mr. TOOMBS said the difficulties in the way of the organization of this House are apparent and well understood here, and should be understood by the country. A great sectional question lies at the foundation of all these troubles... We have just listened to strong appeals upon the necessity of organizing the House. I confess I do not feel that necessity. From the best lights before me, I cannot see that my constituents have anything to hope from your legislation, but everything to fear. We are not impatient to have the doors of your Treasury thrown open, and forty millions of the common taxes of the whole nation thrown into the lap of one half of it. We ask for none of it; we expect none of it; therefore gentlemen must pardon my want of sympathy for their impatience. By giving you the control of the Treasury, we increase your ability to oppress. I want grievances redressed,

and security against their further perpetration, before I am willing to give you power over the supplies. Sir, I do not regret this state of things in the House. It is time we understood one another; that we should speak out, and carry our principles in our foreheads.

It seems, from the remarks of the gentleman from New York, that we are to be intimidated by eulogies upon the Union, and denunciations of those who are not ready to sacrifice national honor, essential interests, and constitutional rights, upon its altar. Sir, I have as much attachment to the Union of these States, under the Constitution of our fathers, as any freeman ought to have. I am ready to concede and sacrifice for it whatever a just and honorable man ought to sacrifice — I will do no more. I have not heeded the aspersions of those who did not understand, or desired to misrepresent, my conduct or opinions in relation to these questions, which, in my judgment, so vitally affect it. The time has come when I shall not only utter them, but make them the basis of my political action here. I do not, then, hesitate to avow before this House and the country, and in the presence of the living God, that if by your legislation you seek to drive us from the territories of California and New Mexico, purchased by the common blood and treasure of the whole people, and to abolish slavery in this District, thereby attempting to fix a national degradation upon half the States of this Confederacy, *I am for disunion*; and if my physical courage be equal to the maintenance of my convictions of right and duty, I will devote all I am and all I have on earth to its consummation. From 1787 to this hour the people of the South have asked nothing but justice — nothing but the maintenance of the principles and the spirit which controlled our fathers in the formation of the Constitution. Unless we are unworthy of our ancestors, we will never accept less as a condition of union. . . . The Territories are the common property of the people of the United States, purchased by their common blood and treasure. You are their common agents; it is your duty, while they are in a territorial state, to remove all impediments to their free enjoyment by all sections and people of the Union, the slaveholder and the non-slaveholder. You have given the strongest indications that you will not perform this trust — that you will appropriate to yourselves all of this Territory, perpetrate all these wrongs which I have enumerated; yet with these declarations on your lips, when southern men refused to act in party caucuses with you, in which you have a controlling majority — when we ask the simplest guarantee for the future — we are denounced out of doors as recusants and factionists, and indoors we are met with the cry of “Union, Union.”

141. CALHOUN'S LAST SPEECH

March 4, 1850, Calhoun, already so near death he could not deliver this speech, heard it read by another senator. It is Calhoun's political testament, shadowed with Calhoun's conviction that no possible compromise could avert the sectional struggle.

Congressional Globe, 31 Congress, 1 session, Vol. 19, Part 1, pp. 451-455.

.....

MR. CALHOUN. I have, Senators, believed from the first that the agitation of the subject of slavery would, if not prevented by some timely and effective measure, end in disunion. Entertaining this opinion, I have, on all proper occasions, endeavored to call the attention of each of the two great parties which divide the country to adopt some measures to prevent so great a disaster, but without success. The agitation has been permitted to proceed, with almost no attempt to resist it, until it has reached a period when it can no longer be disguised or denied that the Union is in danger. You have thus had forced upon you the greatest and the gravest question that can ever come under your consideration: How can the Union be preserved?

... The first question, then, presented for consideration, in the investigation I propose to make, in order to obtain such knowledge, is: What is it that has endangered the Union?

To this question there can be but one answer: that the immediate cause is the almost universal discontent which pervades all the States composing the southern section of the Union... The next question, going one step further back, is: What has caused this widely-diffused and almost universal discontent?

It is a great mistake to suppose, as is by some, that it originated with demagogues, who excited the discontent with the intention of aiding their personal advancement, or with the disappointed ambition of certain politicians, who resorted to it as the means of retrieving their fortunes... No; some cause, far deeper and more powerful than the one supposed, must exist, to account for discontent so wide and deep... It will be found in the belief of the people of the southern States, as prevalent as the discontent itself, that they cannot remain, as things now are, consistently with honor and safety, in the Union. The next question to be considered is: What has caused this belief?

One of the causes is, undoubtedly, to be traced to the long-continued agitation of the slave question on the part of the North, ..

There is another, lying back of it, with which this is intimately

connected, that may be regarded as the great and primary cause. That is to be found in the fact that the equilibrium between the two sections in the Government, as it stood when the constitution was ratified and the Government put in action, has been destroyed. . .

.....

Had this destruction been the operation of time, without the interference of Government, the South would have had no reason to complain; but such was not the fact. It was caused by the legislation of this Government, which was appointed as the common agent of all, and charged with the protection of the interests and security of all. The legislation by which it has been effected may be classed under three heads. The first is, that series of acts by which the South has been excluded from the common territory belonging to all of the States, as the members of the Federal Union, and which have had the effect of extending vastly the portion allotted to the Northern section, and restricting within narrow limits the portion left the South; the next consists in adopting a system of revenue and disbursements, by which an undue proportion of the burden and taxation has been imposed upon the South, and an undue proportion of its proceeds appropriated to the North; and the last is a system of political measures by which the original character of the Government has been radically changed. . .

The first of the series of acts by which the South was deprived of its due share of the territories, originated with the Confederacy, which preceded the existence of this Government. It is to be found in the provision of the ordinance of 1787. . . The next of the series is the Missouri compromise, which excluded the South from that large portion of Louisiana which lies north of $36^{\circ} 30'$, excepting what is included in the State of Missouri. The last of the series excluded the South from the whole of the Oregon Territory. . .

I have not included the territory recently acquired by the treaty with Mexico. The North is making the most strenuous efforts to appropriate the whole to herself, by excluding the South from every foot of it. . . To sum up the whole, the United States, since they declared their independence, have acquired 2,373,046 square miles of territory, from which the North will have excluded the South, if she should succeed in monopolizing the newly acquired territories, from about three-fourths of the whole, leaving to the South but about one-fourth.

Such is the first and great cause that has destroyed the equilibrium between the two sections in the Government.

The next is the system of revenue and disbursements which has

been adopted by the Government. . . Under the most moderate estimate, it would be sufficient to add greatly to the wealth of the North, and thus greatly increase her population by attracting emigration from all quarters to that section.

. . . The loss then of the equilibrium is to be attributed to the action of this Government.

But while these measures were destroying the equilibrium between the two sections, the action of the Government was leading to a radical change in its character, by concentrating all the power of the system in itself. . .

That the Government claims, and practically maintains, the right to decide in the last resort as to the extent of its powers, will scarcely be denied by any one conversant with the political history of the country. That it also claims the right to resort to force to maintain whatever power she claims, against all opposition, is equally certain. . . It also follows that the character of the Government has been changed, in consequence, from a Federal Republic, as it originally came from the hands of its framers, and that it has been changed into a great national consolidated Democracy. It has indeed, at present, all the characteristics of the latter, and not one of the former, although it still retains its outward form.

The result of the whole of these causes combined is, that the North has acquired a decided ascendancy over every department of this Government, and through it a control over all the powers of the system. . .

. . . There is a question of vital importance to the southern section, in reference to which the views and feelings of the two sections are as opposite and hostile as they can possibly be.

I refer to the relation between the two races in the southern section, which constitutes a vital portion of her social organization. Every portion of the North entertains views and feelings more or less hostile to it. Those most opposed and hostile regard it as a sin, and consider themselves under the most sacred obligation to use every effort to destroy it. . . Those less opposed and hostile, regard it as a crime — an offence against humanity, as they call it; and although not so fanatical, feel themselves bound to use all efforts to effect the same object; while those who are least opposed and hostile, regard it as a blot and a stain on the character of what they call the nation, and feel themselves accordingly bound to give it no countenance or support. On the contrary, the southern section regards the relation as one which cannot be destroyed without subjecting the two races to the greatest calamity, and the section to poverty, desolation, and wretchedness; and accord-

ingly they feel bound by every consideration of interest and safety, to defend it.

.....

... Unless something decisive is done, I again ask what is to stop this agitation, before the great and final object at which it aims — the abolition of slavery in the States — is consummated? is it, then, not certain that if something decisive is not now done to arrest it, the South will be forced to choose between abolition and secession? ..

It is a great mistake to suppose that disunion can be effected by a single blow. . .

The cords that bind the States together are not only many, but various in character. Some are spiritual or ecclesiastical; some political; others social. . .

The strongest of those of a spiritual and ecclesiastical nature consisted in the unity of the great religious denominations, all of which originally embraced the whole Union. . . The strong ties which held each denomination together formed a strong cord to hold the whole Union together; but, as powerful as they were, they have not been able to resist the explosive effect of slavery agitation.

The first of these cords which snapped, under its explosive force, was that of the powerful Methodist Episcopal Church. The numerous and strong ties which held it together are all broke, and its unity gone. They now form separate churches, and, .. are now arrayed into two hostile bodies, engaged in litigation about what was formerly their common property.

The next cord that snapped was that of the Baptists, one of the largest and most respectable of the denominations. That of the Presbyterian is not entirely snapped, but some of its strands have given away. That of the Episcopal Church is the only one of the four great Protestant denominations which remains unbroken and entire.

The strongest cord of a political character consists of the many and strong ties that have held together the two great parties, which have, with some modifications, existed from the beginning of the Government. They both extended to every portion of the Union, and strongly contributed to hold all its parts together. But this powerful cord has fared no better than the spiritual. It resisted for a long time the explosive tendency of the agitation, but has finally snapped under its force — if not entirely, in a great measure. Nor is there one of the remaining cords which have not been greatly weakened. To this extent the Union has already been destroyed by agitation, in the only way it can be, by snapping asunder and weakening the cords which bind it together.

If the agitation goes on, the same force, acting with increased intensity, as has been shown, will finally snap every cord, when nothing will be left to hold the States together except force. But surely that can, with no propriety of language, be called a union, when the only means by which the weaker is held connected with the stronger portion is *force*...

Having now, Senators, explained what it is that endangers the Union, and traced it to its cause, and explained its nature and character, the question again recurs, How can the Union be saved? To this I answer, there is but one way by which it can be, and that is, by adopting such measures as will satisfy the States belonging to the southern section that they can remain in the Union consistently with their honor and their safety. There is, again, only one way by which that can be effected, and that is, by removing the causes by which this belief has been produced. Do *that*, and discontent will cease, harmony and kind feelings between the sections be restored, and every apprehension of danger to the Union removed...

.....

Nor can the plan proposed by the distinguished Senator from Kentucky, nor that of the Administration, save the Union...

The plan of the Administration cannot save the Union, because it can have no effect whatever towards satisfying the States composing the southern section of the Union that they can, consistently with safety and honor, remain in the Union. It is, in fact, but a modification of the Wilmot proviso. It proposes to effect the same object, to exclude the South from all territory acquired by the Mexican treaty... it denies, by implication, the authority of Congress to legislate for the territories, and claims the right as belonging exclusively to the inhabitants of the territories. But to effect the object of excluding the South, it takes care, in the mean time, to let in emigrants freely from the northern States, and all other quarters, except from the South, which it takes special care to exclude, by holding up to them the danger of having their slaves liberated under the Mexican laws. The necessary consequence is to exclude the South from the territory, just as effectually as would the Wilmot proviso...

.....

But, it may be asked, what is to be done with California should she not be admitted? I answer, remand her back to the territorial condition,...

Having now shown what cannot save the Union, I return to the

question with which I commenced, How can the Union be saved? There is but one way by which it can with any certainty; and that is, by a full and final settlement, on the principle of justice, of all the questions at issue between the two sections. The South asks for justice, simple justice, and less she ought not to take. She has no compromise to offer but the Constitution, and no concession or surrender to make. . .

But can this be done? Yes, easily; not by the weaker party, for it can of itself do nothing — not even protect itself — but by the stronger. The North has only to will it to accomplish it — to do justice by conceding to the South an equal right in the acquired territory, and to do her duty by causing the stipulations relative to fugitive slaves to be faithfully fulfilled — to cease the agitation of the slave question, and to provide for the insertion of a provision in the Constitution, by an amendment, which will restore to the South in substance the power she possessed of protecting herself, before the equilibrium between the sections was destroyed by the action of this Government. . .

. . . the responsibility of saving the Union rests on the North, and not the South. The South cannot save it by any act of hers, and the North may save it without any sacrifice whatever, unless to do justice, and to perform her duties under the Constitution, should be regarded by her as a sacrifice.

It is time, Senators, that there should be an open and manly avowal on all sides, as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can hereafter be; and we, as the representatives of the States of this Union, regarded as governments, should come to a distinct understanding as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion, cannot agree to settle them on the broad principle of justice and duty, say so; and let the States we both represent agree to separate and part in peace. If you are unwilling we should part in peace, tell us so, and we shall know what to do, when you reduce the question to submission or resistance. If you remain silent, you will compel us to infer by your acts what you intend. In that case, California will become the test question. If you admit her, under all the difficulties that oppose her admission, you compel us to infer that you intend to exclude us from the whole of the acquired territories, with the intention of destroying irretrievably the equilibrium between the two sections. We would be blind not to perceive, in that case, your real objects are power and aggrandizement, and infatuated not to act accordingly.

I have now, Senators, done my duty in expressing my opinions fully, freely, and candidly, on this solemn occasion. In doing so, I have

been governed by the motives which have governed me in all the stages of the agitation of the slavery question since its commencement. I have exerted myself, during the whole period, to arrest it with the intention of saving the Union, if it could be done; and, if it could not, to save the section where it has pleased Providence to cast my lot, and which I sincerely believe has justice and the Constitution on its side. Having faithfully done my duty to the best of my ability, both to the Union and my section, throughout this agitation, I shall have the consolation, let what will come, that I am free from all responsibility.

142. WEBSTER'S SEVENTH OF MARCH SPEECH

The current anti-slavery opinion of 1850 vehemently condemned Webster for this speech as bartering away the anti-slavery convictions of New England for a chance of the Presidency at the hands of the South. Perhaps Webster cannot be acquitted of personal motives; but his speech certainly voiced a great body of moderate opinion, Southern as well as Northern.

Congressional Globe, 31 Congress, 1 session, vol. 19, Part 1, pp. 476-483.

Mr. President, I wish to speak to-day, not as a Massachusetts man, nor as a northern man, but as an American, and a member of the Senate of the United States. . . I speak to-day for the preservation of the Union. "Hear me for my cause." I speak to-day, out of a solicitous and anxious heart, for the restoration to the country of that quiet and that harmony which make the blessings of this Union so rich, and so dear to us all. . .

.....

Mr. President, three things are quite clear as historical truths. One is, that there was an expectation¹ that, on the ceasing of the importation of slaves from Africa, slavery would begin to run out. That was hoped and expected. Another is, that, as far as there was any power in Congress to prevent the spread of slavery in the United States, that power was executed in the most absolute manner, and to the fullest extent. . .

.....

Here we may pause. There was unanimity of sentiment, if not a general concurrence of sentiment running through the whole community,

¹ Webster is speaking of the period of the adoption of the Constitution.

and especially entertained by the eminent men of all parts of the country. But soon a change began, at the North and the South, and a difference of opinion showed itself — the North growing much more warm and strong against slavery, and the South growing much more warm and strong in its support. . .

Well, Sir, we know what follows. The age of cotton became a golden age for our Southern brethren. It gratified their desire for improvement and accumulation, at the same time that it excited it. The desire grew by what it fed upon, and there soon came to be an eagerness for other territory — a new area or new areas for the cultivation of the cotton crop; and measures were brought about, somewhat rapidly, one after another, under the lead of Southern men at the head of the Government — they having a majority in both branches of the Government — to accomplish their ends. The honorable member from South Carolina² observed that there has been a majority all along in favor of the North. If that be true, Sir, the North has acted either very liberally and kindly, or very weakly; for they never exercised that majority efficiently five times in the history of the government, when a division or trial of strength arose. Never. Whether they were out-generalled, or whether it was owing to other causes, I shall not stop to consider; but no man acquainted with the history of the country can deny, that the general lead in the politics of the country, for three fourths of the period that has elapsed since the adoption of the Constitution, has been a southern lead.

In 1802, in pursuit of the idea of opening a new cotton region, the United States obtained a cession from Georgia of the whole of her western territory, now embracing the rich and growing State of Alabama. In 1803 Louisiana was purchased from France, out of which the States of Louisiana, Arkansas, and Missouri have been framed, as slave-holding States. In 1819 the cession of Florida was made, bringing another cession of slaveholding property and territory. Sir, the honorable member from South Carolina thought he saw in certain operations of the Government, such as the manner of collecting the revenue and the tendency of measures calculated to promote emigration into the country, what accounts for the more rapid growth of the North than the South. He ascribes that more rapid growth, not to the operation of time, but to the system of government and administration established under this Constitution. That is matter of opinion. To a certain extent it may be true; but it does seem to me that, if any operation of the government can be shown in any degree to have promoted the population, and growth, and wealth of the North, it is much more sure that

² Mr. Calhoun.

there are sundry important and distinct operations of the government, about which no man can doubt, tending to promote, and which absolutely have promoted, the increase of the slave interest, and the slave territory, of the South. Allow me to say, that it was not time that brought in Louisiana; it was the act of men. It was not time that brought in Florida; it was the act of men. And lastly, Sir, to complete those acts of men, who have contributed so much to enlarge the area and the sphere of the institution of slavery, Texas—great and vast and illimitable Texas—was added to the Union as a slave State in 1845; and that, Sir, pretty much closed the whole chapter, and settled the whole account.

That closed the whole chapter—that settled the whole account—because the annexation of Texas, upon the conditions and under the guaranties upon which she was admitted, did not leave within the control of this government an acre of land, capable of being cultivated by slave labor, between this Capitol and the Rio Grande or the Nueces, or whatever is the proper boundary of Texas—not an acre, not one. From that moment, the whole country, from this place to the western boundary of Texas, was fixed, pledged, fastened, decided, to be slave territory for ever, by the solemn guaranties of law. And I now say, sir, as the proposition upon which I stand this day, and upon the truth and firmness of which I intend to act until it is overthrown, that there is not at this moment within the United States, or any territory of the United States, a single foot of land, the character of which, in regard to its being free territory or slave territory, is not fixed by some law, and some irrepeatable law, beyond the power of the action of this Government. Now, is it not so with respect to Texas? Why, it is most manifestly so. . .

. . . I wish it to be distinctly understood today, that, according to my view of the matter, this Government is solemnly pledged, by law and contract, to create new States out of Texas, with her consent, when her population shall justify and call for such a proceeding, and, so far as such States are formed out of Texan territory lying south of $36^{\circ} 30'$, to let them come in as slave States. . .

Now, as to California and New Mexico, I hold slavery to be excluded from those territories by a law even superior to that which admits and sanctions it in Texas—I mean the law of nature—of physical geography—the law of the formation of the earth. That law settles for ever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico. . .

I look upon it, therefore, as a fixed fact, to use an expression current to the day, that both California and New Mexico are destined to be free, so far as they are settled at all, which I believe, in regard to New

Mexico, will be but partially for a great length of time — free by the arrangement of things ordained by the Power above us. I have therefore to say, in this respect also, that this country is fixed for freedom, to as many persons as shall ever live in it, by as irrevocable and a more irrevocable law, than the law that attaches to the right of holding slaves in Texas; and I will say further, that, if a resolution or a bill were now before us, to provide a territorial government for New Mexico, I would not vote to put any prohibition into it whatever. The use of such a prohibition would be idle, as it respects any effect it would have upon the territory; and I would not take pains uselessly to reaffirm an ordinance of nature, nor to reenact the will of God. And I would put in no Wilmot Proviso for the mere purpose of a taunt or a reproach. . .

Now, Mr. President, I have established, so far as I proposed to go into any line of observations to establish, the proposition with which I set out, and upon which I propose to stand or fall; and that is, that the whole territory of the States in the United States, or in the newly-acquired territory of the United States, has a fixed and settled character, now fixed and settled by law which cannot be repealed; in the case of Texas without a violation of public faith, and can not be repealed by human power in regard to California or New Mexico; that, under one or other of these laws, every foot of land in the States, or in the Territories has already received a fixed and decided character. . .

Mr. President, in the excited times in which we live, there is found to exist a state of crimination and recrimination between the North and the South. There are lists of grievances produced by each; and those grievances, real or supposed, alienate the minds of one portion of the country from the other, exasperate the feelings, and subdue the sense of fraternal affection, and patriotic love, and mutual regard. I shall bestow a little attention, sir, upon these various grievances existing on the one side and on the other. I begin with complaints of the South . . . especially one complaint of the South, which has in my opinion just foundation; and that is, that there has been found at the North, among individuals and among the Legislatures of the North a disinclination to perform, fully, their constitutional duties in regard to the return of persons bound to service who have escaped into the free States. In that respect it is my judgment that the South is right, and the North is wrong. Every member of every northern Legislature is bound by oath, like every other officer in the country, to support the Constitution of the United States; and this article of the Constitution which says to these States they shall deliver up fugitives from service, is as

binding in honor and conscience as any other article. No man fulfils his duty in any Legislature who sets himself to find excuses, evasions, escapes from this constitutional obligation. . . Therefore, I repeat, sir, that here is a well-founded ground of complaint against the North, which ought to be removed — which it is now in the power of the different departments of this government to remove — which calls for the enactment of proper laws, authorizing the judicature of this government, in the several States, to do all that is necessary for the recapture of fugitive slaves and for the restoration of them to those who claim them. . .

Complaint has been made against certain resolutions that emanate from Legislatures at the North, and are sent here to us, not only on the subject of slavery in this District, but sometimes recommending Congress to consider the means of abolishing slavery in the States. I should be sorry to be called upon to present any resolutions here which could not be referable to any committee or any power in Congress; and therefore I should be unwilling to receive from the Legislature of Massachusetts any instructions to present resolutions expressive of any opinion whatever on the subject of slavery, as it exists at the present moment in the States, for two reasons: because — first, I do not consider that the Legislature of Massachusetts has any thing to do with it; and next, I do not consider that I, as her representative here, have any thing to do with it. . .

Then, sir, there are those abolition societies, of which I am unwilling to speak, but in regard to which I have very clear notions and opinions. I do not think them useful. I think their operations for the last twenty years have produced nothing good or valuable. At the same time, I know thousands of them are honest and good men; perfectly well-meaning men. They have excited feelings; they think they must do something for the cause of liberty; and in their sphere of action, they do not see what else they can do than to contribute to an abolition press, or an abolition society, or to pay an abolition lecturer. I do not mean to impute gross motives even to the leaders of these societies, but I am not blind to the consequences. I cannot but see what mischiefs their interference with the South has produced. And is it not plain to every man? . .

Again, sir, the violence of the press is complained of. The press violent! Why, sir, the press is violent everywhere. There are outrageous reproaches in the North against the South, and there are reproaches as vehement in the South against the North. Sir, the extremists of both parts of this country are violent; they mistake loud and violent talk for eloquence and for reason. . .

Well, in all this I see no solid grievance, no grievance presented by the South, within the redress of the government, but the single one to which I have referred; and that is, the want of a proper regard to the injunction of the Constitution for the delivery of fugitive slaves.

There are also complaints of the North against the South. I need not go over them particularly. The first and gravest is, that the North adopted the Constitution, recognizing the existence of slavery in the States, and recognizing the right, to a certain extent, of the representation of slaves in Congress, under a state of sentiment and expectation which does not now exist; and that, by events, by circumstances, by the eagerness of the South to acquire territory and extend their slave population, the North finds itself, in regard to the influence of the South and the North, of the free States and the slave States, where it never did expect to find itself when they entered the compact of the Constitution. . .

Well, then, passing from that, every body in the North reads; and every body reads whatsoever the newspapers contain; and the newspapers, some of them — especially those presses to which I have alluded — are careful to spread about among people every reproachful sentiment uttered by any southern man bearing at all against the North — . . . An honorable member from Louisiana addressed us the other day on this subject. I suppose there is not a more amiable and worthy gentleman in this chamber, nor a gentleman who would be more slow to give offence to any body, and he did not mean in his remarks to give offence. But what did he say? Why, Sir, he took pains to run a contrast between the slaves of the South and the laboring people of the North, giving the preference, in all points of condition, and comfort, and happiness, to the slaves of the South. The honorable member, doubtless, did not suppose that he gave any offence, or did any injustice. He was merely expressing his opinion. But does he know how remarks of that sort will be received by the laboring people of the North? Why, who are the laboring people of the North? They are the North. They are the people who cultivate their own farms with their own hands — freeholders, educated men, independent men. Let me say, Sir, that five sixths of the whole property of the North is in the hands of the laborers of the North; they cultivate their farms, they educate their children, they provide the means of independence; if they are not freeholders, they earn wages; these wages accumulate, are turned into capital, into new freeholds, and small capitalists are created. Such is the case, and such the course of things, among the industrious and frugal. And what can these people think when so respectable and worthy a gentleman as the member from Louisiana undertakes to prove that the absolute ignorance,

and the abject slavery of the South are more in conformity with the high purposes and destiny of immortal, rational human beings, than the educated, the independent free laborers of the North?

There is a more tangible, and irritating cause of grievance at the North. Free blacks are constantly employed in the vessels of the North, generally as cooks or stewards. When the vessel arrives at a Southern port, these free colored men are taken on shore, by the police or municipal authority, imprisoned, and kept in prison till the vessel is again ready to sail. This is not only irritating, but exceedingly unjustifiable and oppressive. Mr. Hoar's mission, some time ago, to South Carolina, was a well-intended effort to remove this cause of complaint. The North thinks such imprisonments illegal and unconstitutional; and as the cases occur constantly and frequently, they regard it as a great grievance.

... I hear with pain, and anguish, and distress, the word secession, especially when it falls from the lips of those who are patriotic, and known to the country, and known all over the world, for their political services. Secession! Peaceable secession! Sir, your eyes and mine are never destined to see that miracle. The dismemberment of this vast country without convulsion! The breaking up of the fountains of the great deep without ruffling the surface! Who is so foolish — I beg every body's pardon — as to expect to see any such thing? ..

Peaceable secession! peaceable secession! The concurrent agreement of all the members of this great Republic to separate! A voluntary separation, with alimony on one side and on the other. Why, what would be the result? Where is the line to be drawn? What States are to secede? What is to remain American? What am I to be? — An American no longer? Where is the flag of the Republic to remain? Where is the eagle still to tower? or is he to cower, and shrink, and fall to the ground? Why, Sir, our ancestors, our fathers and our grandfathers, those of them that are yet living amongst us with prolonged lives — would rebuke and reproach us; and our children, and our grandchildren, would cry out, Shame upon us! if we of this generation should dishonor these ensigns of the power of the government and the harmony of that Union which is every day felt among us with so much joy and gratitude. What is to become of the army? What is to become of the navy? What is to become of the public lands? How is each of the thirty States to defend itself? I know, although the idea has not been stated distinctly, there is to be a southern Confederacy. I do not mean, when I allude to this statement, that any one seriously contemplates such a state of things. I do not mean to say that it is true, but I have heard it suggested elsewhere, that that idea has originated in a design to

separate. I am sorry, sir, that it has ever been thought of, talked of, or dreamed of, in the wildest flights of human imagination. But the idea must be of a separation, including the slave States upon one side, and the free States on the other. Sir, . . . I hold the idea of a separation of these States — those that are free to form one government, and those that are slaveholding to form another — as a moral impossibility. We could not separate the States by any such line, if we were to draw it. We could not sit down here to-day, and draw a line of separation that would satisfy any five men in the country. There are natural causes that would keep and tie us together, and there are social and domestic relations which we could not break, if we would, and which we should not, if we could.

Sir, nobody can look over the face of this country at the present moment — nobody can see where its population is the most dense and growing — without being ready to admit, and compelled to admit, that ere long America will be in the valley of the Mississippi.

Well, now, sir, I beg to inquire what the wildest enthusiast has to say on the possibility of cutting off that river, and leaving free States at its source and its branches, and slave States down near its mouth, each forming a separate government? . . . Here, sir, are five millions of freemen in the free States north of the river Ohio: can any body suppose that this population can be severed, by a line that divides them from the territory of a foreign and an alien government, down somewhere, the Lord knows where, upon the lower banks of the Mississippi? What will become of Missouri? Will she join the arrondissement of the slave States? Shall the man from the Yellow Stone and the Platte be connected, in the new republic, with the man who lives on the southern extremity of the Cape of Florida? Sir, I am ashamed to pursue this line of remark. I dislike it — I have an utter disgust for it. I would rather hear of natural blasts and mildews, war, pestilence, and famine, than to hear gentlemen talk of secession. To break up this great government! to dismember this glorious country! to astonish Europe with an act of folly such as Europe for two centuries has never beheld in any government or any people! No, sir! no sir! There will be no secession! Gentlemen are not serious when they talk of secession.

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And now, Mr. President, instead of speaking of the possibility or utility of secession, instead of dwelling in those caverns of darkness, instead of groping with those ideas so full of all that is horrid and horrible, let us come out into the light of day; let us enjoy the fresh air of liberty and union; let us cherish those hopes which belong to

us; let us devote ourselves to those great objects that are fit for our consideration and our action; let us raise our conceptions to the magnitude and the importance of the duties that devolve upon us; let our comprehension be as broad as the country for which we act, our aspirations as high as its certain destiny; let us not be pigmies in a case that calls for men. Never did there devolve on any generation of men higher trusts than now devolve upon us, for the preservation of this Constitution and the harmony and peace of all who are destined to live under it. Let us make our generation one of the strongest and brightest links in that golden chain which is destined, I fondly believe, to grapple the people of all the States to this Constitution for ages to come. It is a great, popular, Constitutional Government, guarded by law and by judicature, and defended by the affections of the whole people. No monarchical throne presses these States together; no iron chain of despotic power encircles them; they live and stand upon a Government popular in its form, representative in its character, founded upon principles of equality, and calculated, we hope, as to last for ever. In all its history it has been beneficent; it has trodden down no man's liberty; it has crushed no State. Its daily respiration, is liberty and patriotism; its yet youthful veins are full of enterprise, courage, and honorable love of glory and renown. Large before, the country has now, by recent events, become vastly larger. This Republic now extends, with a vast breadth, across the whole continent. The two great seas of the world wash the one and the other shore. We realize, on a mighty scale, the beautiful description of the ornamental border of the buckler of Achilles:—

“Now, the broad shield complete, the artist crowned
With his last hand, and poured the ocean round;
In living silver seemed the waves to roll,
And beat the buckler's verge, and bound the whole.”

143. THE CLAYTON-BULWER TREATY, 1850

In the middle of the nineteenth century, Great Britain and United States found they had joint interests in Central America, especially in the construction of an interoceanic canal. The result was a negotiation and the following treaty of April 19, 1850.

United States Statutes at Large, vol. 9, pp. 995-998.

THE United States of America and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist

between them by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship-canal which may be constructed between the Atlantic and Pacific Oceans by the way of the river San Juan de Nicaragua, and either or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific Ocean, . . their plenipotentiaries have agreed to the following articles:

ARTICLE I.

The governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have to or with any State or people for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain traversing the said canal shall, in case of war between the contracting parties, be exempted from blockade, detention, or capture by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal as may hereafter be found expedient to establish.

.....

ARTICLE V.

The contracting parties further engage that when the said canal shall have been completed they will protect it from interruption, seiz-

ure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may forever be open and free, and the capital invested therein secure. Nevertheless, the governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both governments, or either government, if both governments or either government should deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable tolls upon passengers, vessels, goods, wares, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

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ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship-canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulations of which contract neither of the contracting parties in this convention have any just cause to object, and the said persons or company shall, moreover, have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the governments of the United States and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the proposed enterprize, then the Governments of the United States and

Great Britain shall be free to afford their protection to any other persons or company that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE VIII.

The governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the interoceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protection to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain that the parties constructing or owning the same shall impose no other charges or conditions of traffic thereupon than the aforesaid governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this convention shall be exchanged at Washington within six months from this day, or sooner if possible.

In faith whereof we, the respective plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done at Washington the nineteenth day of April, anno Domini one thousand eight hundrd and fifty.

JOHN M. CLAYTON. [L.S.]
HENRY LYTTON BULWER. [L.S.]

144. CLAY'S COMPROMISE REPORT

The following report to the Senate, made May 8, 1850, summarizes the terms on which the Compromise of 1850 was finally enacted in the form of separate bills.

Senate Reports, 31 Congress, 1 session, 1849-50. No. 123, pp. 1-11.

Mr. Clay, from the select committee appointed the 10th April, 1850, made the following

REPORT:

[To accompany bills S. No. 225 and S. No. 226.]

The Senate's Committee of Thirteen, to whom were referred various resolutions relating to California, to other portions of the territory recently acquired by the United States from the republic of Mexico, and to other subjects connected with the institution of slavery, have, according to order, had these resolutions and subjects under consideration, and beg leave to submit the following report:

The committee entered on the discharge of their duties with a deep sense of their great importance, and with earnest and anxious solicitude to arrive at such conclusions as might be satisfactory to the Senate and to the country. Most of the matters referred have been not only subjected to extensive and serious public discussion throughout the country, but to a debate in the Senate itself, singular for its elaborateness and its duration; so that a full exposition of all those motives and views which, on the several subjects confided to the committee, have determined the conclusions at which they have arrived, seems quite unnecessary. They will, therefore, restrict themselves to a few general observations, and to some reflections which grow out of those subjects.

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... By a provision in the resolution of Congress annexing Texas to the United States, it is declared that "new States, of convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the territory thereof, which shall be *entitled to admission* under the provisions of the federal constitution; and such States as may be formed out of that portion of said territory lying south of 36° 30' north latitude, commonly known as the Missouri compromise line, *shall be* admitted into the Union with or without slavery, as the people of each State asking admission may desire."

The committee are unanimously of opinion, that whenever one or more States, formed out of the territory of Texas, not exceeding four, having sufficient population, with the consent of Texas, may apply to be admitted into the Union, they are entitled to such admission, beyond all doubt, . . . But, whilst the committee conceive that the right of admission into the Union of any new States carved out of the territory

of Texas, not exceeding the number specified, and under the conditions stated, cannot be justly controverted, the committee do not think that the formation of any such new States should now originate with Congress. The initiative, in conformity with the usage which has heretofore prevailed, should be taken by a portion of the people of Texas themselves, desirous of constituting a new State, with the consent of Texas. And in the formation of such new State, it will be for the people composing it to decide for themselves whether they will admit or will exclude slavery. And however they may decide that purely municipal question, Congress is bound to acquiesce, and to fulfil in good faith the stipulations of the compact with Texas. . .

In considering the question of the admission of California as a State into the Union, a majority of the committee conceive that any irregularity by which that State was organized without the previous authority of an act of Congress ought to be overlooked, in consideration of the omission by Congress to establish any territorial government for the people of California, and the consequent necessity which they were under to create a government for themselves best adapted to their own wants. . . The sole condition required by the constitution of the United States in respect to the admission of a new State is, that its constitution shall be republican in form. California presents such a constitution; and there is no doubt of her having a greater population than that which, according to the practice of the government, has been heretofore deemed sufficient to receive a new State into the Union.

In regard to the proposed boundaries of California, the committee would have been glad if there existed more full and accurate geographical knowledge of the territory which those boundaries include. There is reason to believe that, large as they are, they embrace no very disproportionate quantity of land adapted to cultivation. And it is known that they contain extensive ranges of mountains, deserts of sand, and much unproductive soil. . .

A majority of the committee think that there are many and urgent concurring considerations in favor of admitting California with the proposed boundaries, and of securing to her at this time the benefits of a State government. . .

A majority of the committee, therefore, recommend to the Senate the passage of the bill reported by the Committee on Territories for the admission of California as a State into the Union. To prevent misconception, the committee also recommend that the amendment reported by the same committee to the bill be adopted, so as to leave incontestable the right of the United States to the public domain and other public property in California.

Whilst a majority of the committee believe it to be necessary and

proper, under actual circumstances, to admit California, they think it quite as necessary and proper to establish governments for the residue of the territory derived from Mexico, and to bring it within the pale of the federal authority. The remoteness of that territory from the seat of the general government; the dispersed state of its population; the variety of races... their exposure to inroads and wars of savage tribes... impose upon the United States the imperative obligation of extending to them protection, and of providing for them government and laws suited to their condition. Congress will fail in the performance of a high duty if it does not give, or attempt to give, to them the benefit of such protection, government, and laws. They are not now, and for a long time to come may not be, prepared for State government. The territorial form, for the present, is best suited to their condition. A bill has been reported by the Committee on Territories dividing all the territory acquired from Mexico not comprehended within the limits of California into two Territories, under the names of New Mexico and Utah, and proposing for each a territorial government.

The committee recommend to the Senate the establishment of those territorial governments; and in order more certainly to secure that desirable object, they also recommend that the bill for their establishment be incorporated in the bill for the admission of California, and that, united together, they both be passed.

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... The bill for establishing the two Territories, it will be observed, omits the Wilmot proviso, on the one hand, and, on the other, makes no provision for the introduction of slavery into any part of the new Territories. That proviso has been the fruitful source of distraction and agitation... There was never any occasion for it, to accomplish the professed object with which it was originally offered. This has been clearly demonstrated by the current of events. California, of all the recent territorial acquisitions from Mexico, was that in which, if anywhere within them, the introduction of slavery was most likely to take place; and the constitution of California, by the unanimous vote of her convention, has expressly interdicted it. There is the highest degree of probability that Utah and New Mexico will, when they come to be admitted as States, follow the example. The proviso is, as to all these regions in common, a mere abstraction... It is high time that the wounds which it has inflicted should be healed up and closed...

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The committee beg leave next to report on the subject of the northern and western boundary of Texas. On that question a great diversity of

opinion has prevailed. . . The terms proposed for such an adjustment are . . . with inconsiderable variation, the same as that reported by the Committee on Territories.

According to these terms, it is proposed to Texas that her boundary be recognised to the Rio Grande, and up that river to the point commonly called El Paso, and running thence up that river twenty miles, measured thereon by a straight line, and thence eastwardly to a point where the hundredth degree of west longitude crosses Red river; being the southwest angle in the line designated between the United States and Mexico, and the same angle in the line of the territory set apart for the Indians by the United States.

If this boundary be assented to by Texas, she will be quieted to that extent in her title. And some may suppose that, in consideration of this concession by the United States, she might, without any other equivalent, relinquish any claim she has beyond the proposed boundary: . . But, under the influence of a sentiment of justice and great liberality, the bill proposes to Texas, for her relinquishment of any such claim, a large pecuniary equivalent. . .

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The committee will now proceed to the consideration of, and to report upon, the subject of persons owing service or labor in one State escaping into another. The text of the constitution is quite clear: "No person held to labor or service in one State, *under the laws thereof*, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but *shall be delivered up* on the claim of the party to whom such service or labor may be due." Nothing can be more explicit than this language — nothing more manifest than the right to demand, and the obligation to deliver up to the claimant, any such fugitive. And the constitution addresses itself alike to the States composing the Union and to the general government. If, indeed, there were any difference in the duty to enforce this portion of the constitution between the States and the federal government, it is more clear that it is that of the former than of the latter. But it is the duty of both. It is now well known and incontestable that citizens in slaveholding States encounter the greatest difficulty in obtaining the benefit of this provision of the constitution. The attempt to recapture a fugitive is almost always a subject of great irritation and excitement, and often leads to most unpleasant, if not perilous, collisions. An owner of a slave, it is quite notorious, cannot pursue his property, for the purpose of its recovery, in some of the States, without imminent personal hazard. This is a deplorable state of things, which ought to be

remedied. The law of 1793 has been found wholly ineffectual, and requires more stringent enactments. . .

The non-slaveholding States, whatever sympathies any of their citizens may feel for persons who escape from other States, cannot discharge themselves from an obligation to enforce the constitution of the United States. . .

But, whatever may be the conduct of individual States, the duty of the general government is perfectly clear. That duty is, to amend the existing law, and to provide an effectual remedy for the recovery of fugitives from service or labor. . .

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Numerous petitions have been presented praying for a trial by jury, in the case of arrest of fugitives from service or labor, in the non-slaveholding States. It has been already shown that this would be entirely contrary to practice and uniform usage in all similar cases. Under the name of a popular and cherished institution — an institution, however, never applied in cases of preliminary proceedings and only in cases of final trial — there would be a complete mockery of justice, so far as the owner of the fugitive is concerned. . .

But whilst the committee conceive that a trial by jury in a State where a fugitive from service or labor is recaptured would be a virtual denial of justice to the claimant of such fugitive, and would be tantamount to a positive refusal to execute the provision of the constitution, the same objections do not apply to such a trial in the State from which he fled. . .

In deference to the feelings and prejudices which prevail in the non-slaveholding States, the committee propose such a trial in the State from which the fugitive fled, in all cases where he declares to the officer giving the certificate for his return that he has a right to his freedom. . .

.....

It remains to report upon the resolutions in relation to slavery and the slave trade in the District of Columbia. Without discussing the power of Congress to abolish slavery within the District, in regard to which a diversity of opinion exists, the committee are of opinion that it ought not to be abolished. It could not be done without indispensable conditions, which are not likely to be agreed to. It could not be done without exciting great apprehension and alarm in the slave States. . .

Nor does the number of slaves within the District make the abolition of slavery an object of any such consequence as appears to be attached

to it in some parts of the Union. . . According to the census of 1830, the number was 4,505; and in 1840 it was reduced to 3,320: showing a reduction in ten years of nearly one-third. If it should continue in the same ratio, the number, according to the census now about to be taken, will be only a little upwards of two thousand.

But a majority of the committee think differently in regard to the slave trade within the District. . . That trade, a majority of the committee are of opinion, ought to be abolished. Complaints have always existed against it, no less on the part of members of Congress from the South than on the part of members from the North. It is a trade sometimes exhibiting revolting spectacles, and one in which the people of the District have no interest, but, on the contrary, are believed to be desirous that it should be discontinued. Most, if not all, of the slaveholding States have, either in their constitutions or by penal enactments, prohibited a trade in slaves as merchandise within their respective jurisdictions. Congress, standing in regard to the people of this District on this subject in a relation similar to that of the State Legislatures to the people of the States, may safely follow the examples of the States. . .

The views and recommendations contained in this report may be recapitulated in a few words:

1. The admission of any new State or States formed out of Texas to be postponed until they shall hereafter present themselves to be received into the Union, when it will be the duty of Congress fairly and faithfully to execute the compact with Texas by admitting such new State or States;

2. The admission forthwith of California into the Union, with the boundaries which she has proposed;

3. The establishment of territorial governments, without the Wilmot proviso, for New Mexico and Utah, embracing all the territory recently acquired by the United States from Mexico not contained in the boundaries of California;

4. The combination of these two last-mentioned measures in the same bill;

5. The establishment of the western and northern boundary of Texas, and the exclusion from her jurisdiction of all New Mexico, with the grant to Texas of a pecuniary equivalent; and the section for that purpose to be incorporated in the bill admitting California and establishing territorial governments for Utah and New Mexico;

6. More effectual enactments of law to secure the prompt delivery of persons bound to service or labor in one State, under the laws thereof, who escape into another State; and,

7. Abstaining from abolishing slavery; but, under a heavy penalty, prohibiting the slave trade in the District of Columbia.

If such of these several measures as require legislation should be carried out by suitable acts of Congress, all controversies to which our late territorial acquisitions have given rise, and all existing questions connected with the institution of slavery, whether resulting from those acquisitions or from its existence in the States and the District of Columbia, will be amicably settled and adjusted, in a manner, it is confidently believed, to give general satisfaction to an overwhelming majority of the people of the United States. Congress will have fulfilled its whole duty in regard to the vast country which, having been ceded by Mexico to the United States, has fallen under their dominion. It will have extended to it protection, provided for its several parts the inestimable blessing of free and regular government adapted to their various wants, and placed the whole under the banner and the flag of the United States. Meeting courageously its clear and entire duty, Congress will escape the unmerited reproach of having, from considerations of doubtful policy, abandoned to an undeserved fate territories of boundless extent, with a sparse, incongruous, and alien, if not unfriendly, population, speaking different languages, and accustomed to different laws, whilst that population is making irresistible appeals to the new sovereignty to which they have been transferred for protection, for government, for law, and for order...

145. THE NASHVILLE CONVENTION

The Nashville Convention met originally June 3, 1850; nine slave states were represented by leaders of the irreconcilable group who believed the South could not compromise. The convention held a second session in November without important action. The resolutions are the platform of the Southern group opposed to the Compromise of 1850.

From the Alton (Ill.) Telegraph and Democratic Review, Friday, June 21, 1850.

RESOLUTIONS Adopted by the Nashville Convention.

Resolved, That the Territories of the United States belong to the people of the several States of the Union, as common property; that the citizens of the several States have equal rights to emigrate with their property to these Territories, and are equally entitled to the protection of the Federal Government in the enjoyment of that property, so long as the Territories remain under the charge of that Government.

Resolved, That Congress has no power to exclude from the Terri-

ories of the United States property lawfully belonging to the States of the Union; and any act which may be passed by Congress to effect this result, is a plain violation of the Constitution of the United States.

Resolved, That it is the duty of Congress to provide governments for the Territories, since the spirit of American institutions forbids the maintenance of military governments in time of peace; and as all laws heretofore existing in Territories once belonging to foreign powers, which interfere with the full enjoyment of religion, the freedom of the press, the trial by jury, and all other rights of persons and property, is secured or recommended in the Constitution of the United States, are necessarily void as soon as such Territories become American Territories, it is the duty of the Federal Government to make early provisions for the enactment of those laws which may be expedient and necessary to secure to the inhabitants of, and emigrants to, such Territories, the full benefit of the constitutional rights we assert.

Resolved, That to protect property existing in the several States of the Union, the people of these States invested the Federal Government with the power of war, negotiation, and of sustaining armies and navies, and prohibited to State authorities the exercise of the same powers; . . whatever the States deal with as property, as such the Federal Government is bound to recognize and defend; therefore, it is the sense of this Convention that all the acts of the Federal Government which tend to denationalize property of any description, recognized in the Constitution and laws of the States, or that discriminate in the degree and efficiency of the protection to be afforded to it, or weaken, or destroy the title of any citizen upon American territories, are plain and palpable violations of the fundamental law under which it exists; that the slaveholding States cannot, and will not, submit to the enactment by Congress of any law imposing onerous conditions or restrictions upon rights of masters to remove with their property to the Territories of the United States, or to any law making discriminations in favor of the protection of other property against them.

.....

Resolved, That the performance of their duty is required by the fundamental law of the Union — the equality of the several States comprising the Union cannot be disturbed, without disturbing the frame of the American institutions. This principle is violated in the denial to citizens of slaveholding States to the power to enter into the Territories with their property acquired in the States; the warfare against this right is a war upon the Constitution; the defenders of this right are defenders of the Constitution, and those who deny

or impair its existence, are unfaithful to the Constitution, and if disunion follows, the destroyers of these rights are the disunionists.

.....

Resolved, That the recognition of this principle would relieve the questions between Texas and the United States of their sectional character, and would leave them for adjustment, without disturbance from sectional prejudices and passions, upon considerations of magnanimity and justice.

Resolved, That a recognition of this principle would infuse a spirit of conciliation in the discussion and adjustment of all the subjects of sectional difficulties, which would afford a guarantee of an early and satisfactory termination.

Resolved, That in the event a dominant majority shall refuse to recognize the great constitutional rights which we assert, and shall continue to deny the obligations of the Federal Government to maintain them, it is the sense of this Convention that the Territories should be treated as property, and divided between the States of the Union, so that the rights of both sections be adequately secured in their respective shares; that we are aware that this course is open to grave objections, but we are ready to acquiesce in the adoption of the line of 36 deg. 30 min., north latitude, extending to the Pacific ocean, as an extreme concession, upon consideration of what is due to the stability of our institutions.

Resolved, That it is the opinion of this Convention that this controversy should be ended, either by the recognition of the constitutional rights of the Southern people, or by an equitable partition of the territory. That the spectacle of a confederacy of States involved in quarrels over the fruits of a war in which the American arms were covered with glory, is humiliating. That the incorporation of the "Wilmot Proviso" in the offer of settlement — a proposition which fourteen States regard as disparaging and dishonorable — is degrading to the country. A termination of this controversy by the disruption of the confederacy, or by the abandonment of the Territories, to prevent such a result, would be a climax to the shame which attaches to the controversy, which it is the paramount duty of Congress to avoid.

Resolved, That this Convention will not conclude that Congress will adjourn without making an adjustment of this controversy; and in the condition in which the Convention finds the questions before Congress, it does not feel at liberty to discuss the methods suitable for resistance to measures not yet adopted, which might involve dishonor to the Southern States.

146. THE TEXAS AND NEW MEXICO ACT

A part of the Compromise of 1850.

Statutes at Large of the United States, Vol. 9, pp. 446-452.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following propositions shall be, and the same hereby are, offered to the State of Texas, which, when agreed to by the said State, in an act passed by the general assembly, shall be binding and obligatory upon the United States, and upon the said State of Texas: Provided, The said agreement by the said general assembly shall be given on or before the first day of December, eighteen hundred and fifty:

FIRST. The State of Texas will agree that her boundary on the north shall commence at the point at which the meridian of one hundred degrees west from Greenwich is intersected by the parallel of thirty-six degrees thirty minutes north latitude, and shall run from said point due west to the meridian of one hundred and three degrees west from Greenwich; thence her boundary shall run due south to the thirty-second degree of north latitude; thence on the said parallel of thirty-two degrees of north latitude to the Rio Bravo del Norte, and thence with the channel of said river to the Gulf of Mexico.

SECOND. The State of Texas cedes to the United States all her claim to territory exterior to the limits and boundaries which she agrees to establish by the first article of this agreement.

THIRD. The State of Texas relinquishes all claim upon the United States for liability of the debts of Texas, and for compensation or indemnity for the surrender to the United States of her ships, forts, arsenals, custom-houses, custom-house revenue, arms and munitions of war, and public buildings with their sites, which became the property of the United States at the time of the annexation.

FOURTH. The United States, in consideration of said establishment of boundaries, cession of claim to territory, and relinquishment of claims, will pay to the State of Texas the sum of ten millions of dollars in a stock bearing five per cent. interest, and redeemable at the end of fourteen years, the interest payable half-yearly at the treasury of the United States.

.....

SEC. 2. *And be it further enacted*, That all that portion of the Territory of the United States bounded as follows: Beginning at a point in the Colorado River where the boundary line with the republic

of Mexico crosses the same; thence eastwardly with the said boundary line to the Rio Grande; thence following the main channel of said river to the parallel of the thirty-second degree of north latitude; thence east with said degree to its intersection with the one hundred and third degree of longitude west of Greenwich; thence north with said degree of longitude to the parallel of thirty-eighth degree of north latitude; thence west with said parallel to the summit of the Sierra Madre; thence south with the crest of said mountains to the thirty-seventh parallel of north latitude; thence west with said parallel to its intersection with the boundary line of the State of California; thence with said boundary line to the place of beginning — be, and the same is hereby, erected into a temporary government, by the name of the Territory of New Mexico: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State: *And provided, further*, That, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission.

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APPROVED, September 9, 1850.

147. UTAH TERRITORY ACT

A part of the Compromise of 1850.

Statutes at Large of the United States, Vol. 9, pp. 453-458.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, to wit: bounded on the west by the State of California, on the north by the Territory of Oregon, and on the east by the summit of the Rocky Mountains, and on the south by the thirty-seventh parallel of north latitude, be, and the same is hereby, created into a temporary government, by the name of the Territory of Utah; and, when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this

act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

.....

APPROVED, September 9, 1850.

148. THE FUGITIVE SLAVE LAW

Part of the Compromise of 1850. Anxiety to secure an act that would render effective the constitutional provision for the return of fugitive slaves, led to the passage of an act that trenched deep on personal liberty. After the sectional controversy over slavery had reopened, many of the northern states passed so-called Personal Liberty Laws more or less frankly designed to hinder the enforcement of the Fugitive Slave Law.

Statutes at Large of the United States, Vol. 9, pp. 462-465.

BE it enacted by the Senate and House of Representatives of the United States of America in congress assembled, That the persons who have been, or may hereafter be, appointed commissioners, in virtue of any act of Congress, by the Circuit Courts of the United States, and who . . . are authorized to exercise the powers that any justice of the peace, or other magistrate of any of the United States, may exercise in respect to offenders for any crime or offence against the United States, by arresting, imprisoning, or bailing the same . . . are hereby . . . required to exercise and discharge all the powers and duties conferred by this act.

.....

SEC. 3. *And be it further enacted*, That the Circuit Courts of the United States, and the Superior Courts of each organized Territory of the United States, shall from time to time enlarge the number of commissioners, with a view to afford reasonable facilities to reclaim fugitives from labor, and to the prompt discharge of the duties imposed by this act.

SEC. 4. *And be it further enacted*, That the commissioners above named shall have concurrent jurisdiction with the judges of the Circuit and District Courts of the United States, . . and shall grant certificates to such claimants, upon satisfactory proof being made, with authority to take and remove such fugitives from service or labor, under the

restrictions herein contained, to the State or Territory from which such persons may have escaped or fled.

SEC. 5. *And be it further enacted*, That it shall be the duty of all marshals and deputy marshals to obey and execute all warrants and precepts issued under the provisions of this act, when to them directed; and should any marshal or deputy marshal refuse to receive such warrant, .. he shall, on conviction thereof, be fined in the sum of one thousand dollars, to the use of such claimant, .. and after arrest of such fugitive ... should such fugitive escape, whether with or without the assent of such marshal or his deputy, such marshall shall be liable, on his official bond, to be prosecuted for the benefit of such claimant, for the full value of the service or labor of said fugitive in the State, Territory, or District whence he escaped: and the better to enable the said commissioners, .. to execute their duties faithfully and efficiently, in conformity with the requirements of the Constitution of the United States and of this act, they are hereby authorized ... to appoint, in writing ... any ... suitable persons, from time to time, to execute all such warrants ... as may be issued by them in the lawful performance of their respective duties; with authority ... to summon and call to their aid the bystanders, or *posse comitatus* of the proper county, when necessary ... and all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required, as aforesaid, for that purpose; ..

SEC. 6. *And be it further enacted*, That when a person held to service or labor in any State or Territory of the United States, has heretofore or shall hereafter escape into another State or Territory of the United States, the ... persons to whom such service or labor may be due, or ... their agent or attorney, duly authorized, by power of attorney, .. may pursue and reclaim such fugitive person, either by procuring a warrant from some one of the courts, judges, or commissioners aforesaid, .. or by seizing and arresting such fugitive, where the same can be done without process, and by taking, .. such person ... forthwith before such court, judge, or commissioner, whose duty it shall be to hear and determine the case of such claimant in a summary manner; and upon satisfactory proof being made, by deposition or affidavit, in writing, to be taken and certified by such court, judge, or commissioner, or by other satisfactory testimony, duly taken and certified by some court ... and with proof, also by affidavit, of the identity of the person whose service or labor is claimed to be due as aforesaid, .. to make out and deliver to such claimant, .. a certificate ... with authority to such claimant ... to use such reasonable force and restraint

as may be necessary, under the circumstances of the case, to take and remove such fugitive person back to the State or Territory whence he or she may have escaped as aforesaid. In no trial or hearing under this act shall the testimony of such alleged fugitive be admitted in evidence; and the certificates in this and the first [fourth] section mentioned, shall be conclusive of the right of the person or persons in whose favor granted, to remove such fugitive to the State or Territory from which he escaped, and shall prevent all molestation of such person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.

SEC. 7. *And be it further enacted*, That any person who shall knowingly and willingly obstruct, . . or prevent such claimant, . . from arresting such a fugitive . . or shall . . attempt to rescue, such fugitive . . from the custody of such claimant, . . pursuant to the authority herein given and declared; or shall aid, abet, or assist such person . . to escape from such claimant . . or shall harbor or conceal such fugitive, so as to prevent the discovery and arrest of such person, after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid, shall, for either of said offences, be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which such offence may have been committed, or before the proper court of criminal jurisdiction, if committed within any one of the organized Territories of the United States; and shall moreover forfeit and pay, by way of civil damages to the party injured by such illegal conduct, the sum of one thousand dollars, for each fugitive so lost as aforesaid, to be recovered by action of debt, in any of the District or Territorial Courts aforesaid, within whose jurisdiction the said offence may have been committed.

SEC. 8. *And be it further enacted*, That the marshals, deputies, and the clerks of the said District and Territorial Courts, shall be paid, for their services, the like fees as may be allowed to them for similar services in other cases; and where such services are rendered exclusively in the arrest, custody, and delivery of the fugitive to the claimant, his or her agent or attorney, or where such supposed fugitive may be discharged out of custody for the want of sufficient proof as aforesaid, then such fees are to be paid in the whole by such claimant, and in all cases where the proceedings are before a commissioner, he shall be entitled to a fee of ten dollars in full for his services in each case, upon the delivery of the said certificate to the claimant, his or her agent or attorney; or a fee of five dollars in cases where the proof shall not, in the opinion of such commissioner, warrant such certificate

and delivery, inclusive of all services incident to such arrest and examination, to be paid, in either case, by the claimant, his or her agent or attorney. . .

SEC. 9. *And be it further enacted*, That, upon affidavit made by the claimant of such fugitive, . . after such certificate has been issued, that he has reason to apprehend that such fugitive will be rescued by force from his . . . possession before he can be taken beyond the limits of the State in which the arrest is made, it shall be the duty of the officer making the arrest to retain such fugitive in his custody, and to remove him to the State whence he fled, and there to deliver him to said claimant, . . And to this end, the officer aforesaid is hereby authorized and required to employ so many persons as he may deem necessary to overcome such force, and to retain them in his service so long as circumstances may require. The said officer and his assistants, while so employed, to receive the same compensation, and to be allowed the same expenses, as are now allowed by law for transportation of criminals, to be certified by the judge of the district within which the arrest is made, and paid out of the treasury of the United States.

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APPROVED, September 18, 1850.

149. ABOLITION OF THE SLAVE TRADE IN THE
DISTRICT OF COLUMBIA

Part of the Compromise of 1850. Hitherto Washington had been a collecting point for slaves from Maryland and Virginia to be sold South.

Statutes at Large of the United States, Vol. 9, pp. 467-468.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of January, eighteen hundred and fifty-one, it shall not be lawful to bring into the District of Columbia any slave whatever, for the purpose of being sold, or for the purpose of being placed in depot, to be subsequently transferred to any other State or place to be sold as merchandize. And if any slave shall be brought into the said District by its owner, or by the authority or consent of its owner, contrary to the provisions of this act, such slave shall thereupon become liberated and free.

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APPROVED, September 20, 1850.

150. THE GEORGIA PLATFORM

Passed by a Georgia state convention of December 1850, these resolutions are the program of the southerners who believed that the Compromise of 1850, would, if lived up to, assure the safety of the South in the Union.

Journal of the State Convention, p. 18 ff., Milledgeville, Georgia, 1850.

TO the end, therefore, that the position of this State may be clearly apprehended by her confederates of the South and of the North, and that she may be blameless of all future consequences —

Be it resolved by the people of Georgia in Convention assembled 1st, That we hold the American Union secondary in importance only to the rights and principles it was designed to perpetuate; that past associations, present fruition, and future prospects, will bind us to it so long as it continues to be the safeguard of those rights and principles.

Secondly. That if the thirteen original parties to the contract bordering the Atlantic in a narrow belt, while their separate interests were in embryo, their peculiar tendencies scarcely developed, their revolutionary trials and triumphs still green in memory, found Union impossible without Compromise, the thirty-one of this day may well yield somewhat, in the conflict of opinion and policy, to preserve that Union which has extended the sway of republican government over a vast wilderness, to another ocean, and proportionally advanced civilization and national greatness.

Thirdly. That in this spirit, the state of Georgia has maturely considered the action of Congress embracing a series of measures for the admission of California into the Union; the organization of territorial Governments for Utah and New Mexico; the establishment of a boundary between the latter and the State of Texas; the suppression of the slave trade in the District of Columbia, and the extradition of fugitive slaves; and (connected with them) the rejection of propositions to exclude slavery from the Mexican territories and to abolish it in the District of Columbia, and whilst she does not wholly approve, will abide by it as a permanent adjustment of this sectional controversy.

Fourthly. That the State of Georgia, in the judgment of this Convention, will and ought to resist, even (*as a last resort*) to a disruption of every tie which binds her to the Union, any action of Congress upon the subject of slavery in the District of Columbia, or in places subject to the jurisdiction of Congress, incompatible with the safety, domestic tranquility, the rights and the honor of the slaveholding

States; or any act suppressing the slave trade between the slaveholding States, or any refusal to admit as a State any territory hereafter applying because of the existence of slavery therein; or any act prohibiting the introduction of slaves into the territories of Utah and New Mexico, or any act repealing or materially modifying the laws now in force for the recovery of fugitive slaves.

Fifthly. That it is the deliberate opinion of this Convention that upon the faithful execution of the *Fugitive Slave Law* by the proper authorities depends the preservation of our much-loved Union.

151. THE GADSDEN TREATY

The Gadsden Treaty by purchase extended the international boundary with Mexico southward to its present position. Desire for a southern railroad route to the Pacific was mainly responsible for the purchase.

Statutes at Large of the United States, Vol. 10, pp. 123-129.

ARTICLE I.

THE Mexican Republic agrees to designate the following as her true limits with the United States for the future: retaining the same dividing line between the two Californias as already defined and established, according to the 5th article of the treaty of Guadalupe Hidalgo, the limits between the two republics shall be as follows: Beginning in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, as provided in the 5th article of the treaty of Guadalupe Hidalgo; thence, as defined in the said article, up the middle of that river to the point where the parallel of $31^{\circ} 47'$ north latitude crosses the same; thence due west one hundred miles; thence south to the parallel of $31^{\circ} 20'$ north latitude; thence along the said parallel of $31^{\circ} 20'$ to the 111th meridian of longitude west of Greenwich; thence in a straight line to a point on the Colorado River twenty English miles below the junction of the Gila and Colorado Rivers; thence up the middle of the said river Colorado until it intersects the present line between the United States and Mexico.

.....

ARTICLE III.

In consideration of the foregoing stipulations, the Government of the United States agrees to pay to the government of Mexico, in the city of New York, the sum of ten millions of dollars, of which seven

millions shall be paid immediately upon the exchange of the ratifications of this treaty, and the remaining three millions as soon as the boundary line shall be surveyed, marked, and established.

.....

In testimony whereof, we, the plenipotentiaries of the contracting parties, have hereunto affixed our hands and seals at Mexico, the thirtieth (30th) day of December, in the year of our Lord one thousand eight hundred and fifty-three, in the thirty-third year of the independence of the Mexican republic, and the seventy-eighth of that of the United States.

JAMES GADSDEN,	[L.S.]
MANUEL DIEZ DE BONILLA,	[L.S.]
JOSE SALAZAR YLARREGUI,	[L.S.]
J. MARIANO MONTERDE,	[L.S.]

152. THE KANSAS-NEBRASKA ACT

The slavery struggle was reopened by this act introduced by Senator Douglas and passed in the session of 1853-54. The specific repeal of the Missouri Compromise inserted in the bill by Douglas aroused hot indignation at the north. The reasons for Douglas' action and for the depths of passion stirred up at the north, have hardly yet been satisfactorily accounted for.

Public Statutes at Large of the *United States*, Vol. 10, pp. 277-290.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, to wit: beginning at a point in the Missouri River where the fortieth parallel of north latitude crosses the same; thence west on said parallel to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence on said summit northward to the forty-ninth parallel of north latitude; thence east on said parallel to the western boundary of the territory of Minnesota; thence southward on said boundary to the Missouri River; thence down the main channel of said river to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Nebraska; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission: *Provided*, That nothing in this act con-

tained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of persons or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, ..

.....

SEC. 10. *And be it further enacted*, That the provisions of an act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelve, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend, and supplementary to, the aforesaid act," approved September eighteen, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of said Territory of Nebraska.

.....

SEC. 14. *And be it further enacted*, .. That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Nebraska as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of eighteen hundred and fifty, commonly called the Compromise Measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

.....

SEC. 19. *And be it further enacted*, That all that part of the Territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the

operations of this act, to wit, beginning at a point on the western boundary of the State of Missouri, where the thirty-seventh parallel of north latitude crosses the same; thence west on said parallel to the eastern boundary of New Mexico; thence north on said boundary to latitude thirty-eight; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky Mountains; thence northward on said summit to the fortieth parallel of latitude; thence east on said parallel to the western boundary of the State of Missouri; thence south with the western boundary of said State to the place of beginning, be, and the same is hereby, created into a temporary government by the name of the Territory of Kansas; and when admitted as a State or States, the said Territory, or any portion of the same, shall be received into the Union with or without slavery, as their Constitution may prescribe at the time of their admission: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States: *Provided further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, . .

.....

SEC. 28. *And be it further enacted*, That the provisions of the act entitled "An act respecting fugitives from justice, and persons escaping from the service of their masters," approved February twelfth, seventeen hundred and ninety-three, and the provisions of the act entitled "An act to amend, and supplementary to, the aforesaid act," approved September eighteenth, eighteen hundred and fifty, be, and the same are hereby, declared to extend to and be in full force within the limits of the said Territory of Kansas.

.....

SEC. 32. *And be it further enacted*, . . That the Constitution, and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March sixth, eighteen hundred and twenty, which, being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories as recognized by the legislation of eighteen

hundred and fifty, commonly called the Compromise Measures, is hereby declared inoperative and void; it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of sixth of March, eighteen hundred and twenty, either protecting, establishing, prohibiting, or abolishing slavery.

.....

SEC. 37. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territories embraced within this act, shall be faithfully and rigidly observed, notwithstanding any thing contained in this act; and that the existing agencies and superintendencies of said Indians be continued with the same powers and duties which are now prescribed by law, except that the President of the United States may, at his discretion, change the location of the office of superintendent.

APPROVED, May 30, 1854.

153. THE EMIGRANT AID SOCIETY

Settlers from North and South pushed into Kansas immediately on the organization of the Territory. Desire for economic betterment, the temptation of new lands in which to speculate were motives common to this and other phases of the westward movement. A second motive was the desire of northern and southern groups to win the territory for freedom or slavery. The New England Emigrant Aid Society was popularly supposed to be an organization for pushing free state emigrants into the territory. Notice also its pecuniary motives as revealed in the following extract of testimony before a Congressional committee in 1856.

Reports of Committees, 34 Congress, 1 & 2 sessions, Vol. 2, pp. 873-885.

AMOS A. LAWRENCE called and sworn.

THE first charter for an Emigrant Aid Company was granted by the legislature of Massachusetts in April, 1854... The first legal organization of the company was under articles of association dated July 24,

1854. Under these the subscriptions of stock were made, and action had, until the spring of 1855, when a new charter was obtained, as follows:

“NEW ENGLAND EMIGRANT AID COMPANY.

“CHARTER.

“AN ACT to incorporate the New England Emigrant Aid Company.

“Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same, as follows: Eli Thayer, Amos A. Lawrence, John M. S. Williams, and Thomas H. Webb, their associates, successors, and assigns, are hereby made a corporation, by the name of the New England Emigrant Aid Company, for the purposes of directing emigration westward, and aiding in providing accommodations for the emigrants after arriving at their places of destination; and for these purposes they have all the powers and privileges, and are subject to all the duties, restrictions, and liabilities, set forth in the forty-fourth chapter of the Revised Statutes.

“SEC. 2. The capital stock of said corporation shall not exceed one million of dollars. Said capital stock may be invested in real and personal estate, provided the said corporation shall not hold real estate in this commonwealth to an amount exceeding twenty thousand dollars.

“SEC. 3. This act shall take effect from and after its passage.

“Approved by the governor, February 21, 1855.”

The money paid in for subscriptions of stock, about \$95,000, and the donations, about \$4,000, was received by me, as treasurer, and has been disbursed by me under the direction of the executive committee. No part of it has been expended for sending out emigrants, nor for any purpose except those made known to the public, viz: the establishment of saw mills, taverns, a printing press, for exploring a Territory, &c. No money has been spent for fire arms. . . The pecuniary advantage derived by the emigrants has been a reduction of fare of about fifteen per cent. The other advantages will be inferred from the character of the expenditures of the company. The number who have gone out is about 1,300, and those who have joined the parties about as many more. Until recently there has been no association in New England for sending out emigrants. I never have known any person sent out by any society or by individuals to vote. This company never has exacted any pledge from those going out; all connexion with the company ceases on their arrival in the Territory. . . No directions have been given to the agents of the company in the Territory to resist the territorial laws, or otherwise; no question was asked of the agents as to politics when

they were appointed, nor since. I have never heard that any one of them favored a resistance to the laws of the United States under any circumstances.

.....

ELI THAYER called and sworn.

To Mr. Sherman:

I reside in Worcester, Massachusetts. I have been connected with the Emigrant Aid Society, as vice-president, since its organization...

.....

I am familiar with the purposes and history of this company. We sent, first, men to explore the Territory of Kansas, that being the first Territory opened for settlement, to ascertain the character and resources of that Territory. This and other information we published and furnished gratuitously to all who applied for it. We then opened an office in Boston, when application could be made by those who wished to emigrate to Kansas. The secretary kept a book in which the names of these applicants were recorded. When a party of sufficient number was formed, the day was fixed for their departure, tickets were purchased by the company, at a reduced price, of various lines of transportation, and were furnished to the emigrants at cost. A conductor was furnished by the company for each party. His duty was to provide for their safe, expeditious, and economical conveyance to Kansas. We established local agents in the Territory, whose duty it was to receive these colonists, and to inform them of the best locations open to settlement. The company, in no instance, paid the passage of any emigrant. It made no conditions about the political opinion of the emigrants... It was not doubted that the great body of emigrants were in favor of making Kansas a free State. The company furnished these emigrants with no articles of personal property, and never, directly or indirectly, furnished them with any arms or munitions of war of any kind, and never invested a dollar for any such purpose...

... The moment they arrive at the place named in their ticket all connexion between them and the society ceases... The company built a hotel in Lawrence, at an expense of about \$20,000. At that time there was no hotel worthy of the name in the Territory; there being but little capital in the Territory at the time, as is usual among all pioneers in a new country. This hotel the company leased to Mr. Eldridge, who furnished it, and it was destroyed on the 21st of May last.

We also erected, and prepared to erect, mills in the Territory at different places, some eight or ten of them. The company, I think, had one other building in Lawrence, but I do not now recollect what it is. Some temporary sheds were also erected by the company for the accommodation of emigrants there until they could erect buildings of their own. These were the only buildings that the Emigrant Aid Society ever were interested in. The total expenditures of the company, for all purposes, since its organization have been less than \$100,000. . .

The company laid out no towns, and had no interest in laying out any. The towns were laid out by the settlers themselves, in some cases, the settlers making some arrangements to give the company certain lots to induce us to make investments there, and thus aid in building up the place. This was the case with the town association of Lawrence. The town association would have given similar advantages to any person or company of men who would have made improvements. . .

.....

In my opinion, the stock of the company will prove a profitable investment, if the company shall receive that protection from law enjoyed by other business organizations, as our interests and the interests of the settlers are mutual, never conflicting.

Our investments in the Territory of Kansas have been for the benefit of settlers of all political parties, and from all portions of the States, without preference or partiality.

ELI THAYER.

NEW YORK CITY, June 26, 1856.

154. SOUTHERN MIGRATION TO KANSAS

The following testimony before a Congressional committee in 1856, reveals Missouri interest in fostering pro-slave migration to Kansas. Throughout the South only spasmodic interest was taken in the promotion of migration from the slave states.

Reports of Committees, 34 Congress, 1 & 2 sessions, Vol. 2, pp. 896-897.

JOHN SCOTT called and sworn.

.....

THE first extraordinary effort that the Missourians made to meet the action of these emigrant aid societies, was in the fall of 1854, or the early part of the winter, to form societies in Kansas and Missouri, in which each member pledged himself to use all honorable and legal

means to make Kansas a slave State. I cannot speak of but three counties, but I have heard that, in three counties there, societies existed. In our county I knew one society existed; it was a secret society. I do not know that these societies are now in operation; I attended one up to the 30th March, 1855, and then stopped attending them, and do not know about them since.

I think, perhaps, through the influence of the members of these societies persons were induced to come over here to the election, but I do not think any who did come were members of this society. The objects attempted to be affected by this society, was to hunt up and induce pro-slavery men to come to this Territory and become actual settlers. I never heard of any fund; I deemed the society worthy, under the circumstances of the existing of the aid societies in the east. For Missourians to have done it at any time I should have considered a worthy object for the purpose of building up a bulwark around their domestic institutions as a matter of defence of their slave property, but not for any political purpose...

But since the 30th of March, 1855, I think that society has been superseded by another society, which has a fund for the purpose, of sending pro-slavery emigration to this Territory, and is regularly organized for that purpose. The fund is used in aiding emigrants, by loaning them money to get into the Territory, in providing claims, and entering the land. It is a self-defensive organization, intended to have a bearing upon the political institutions of the Territory, as far as slavery is concerned.

So far as I know anything of the society, the means of the society is not to build up mills and hotels, but to aid individual settlers in their claims, and to do with the funds of the society for them what they individually would do with their own money for themselves. I think these conversations have been formed pretty extensively over Missouri, and I think persons have been selected in Missouri to go to other southern States and build up similar societies there, but to what extent that has been done I do not know...

.....

JOHN SCOTT

155. THE KNOW NOTHINGS

One of the most puzzling things about the political situation of 1854 is the use, side by side, with the Anti-Nebraska movement of Know Nothingism. A movement of protest against the influence of the foreign born worked with the movement of protest against slavery extension

to break down the Whig and Democratic parties. The following sympathetic account of the movement is a chapter from Thomas Whitney, *A Defence of the American Policy*, pp. 280-287, New York, 1856.

CHAPTER XXII.

THE "KNOW NOTHINGS"—ORIGIN AND RISE OF THE ORDER—ITS MISSION

THE vast organization which is at present so numerous and powerful in the United States, vulgarly denominated "Know Nothings," was originally conceived and planned by a gentleman of New York, who, singularly enough, had never been associated with any other American political organization, nor actively engaged with either of the political parties. As early as 1849 this gentleman prepared and systematized his plan for uniting the National sentiment of the American people, against the foreign and papal encroachments so frequently occurring and concentrating in the political atmosphere, and began, among his immediate friends, the work of recruiting members and co-workers. But after more than two years of persevering effort his associates numbered scarcely thirty, all told.

.....

In 1852, a few active members of the Order of United Americans were induced to examine this new plan. They found a society consisting of *forty-three* members. The general objects of the association were the same as those of the O. U. A., but the qualifications necessary to obtain membership were far more restrictive, and the appurtenances of secrecy more specific and stringent, and although the plan was somewhat incomplete in detail, and unadapted to the government of an expanded organization, extending over and ramifying all the States and territories of the Union, it yet presented one peculiar feature calculated to promote a rapid, if not a healthy growth. *It cost nothing to acquire and hold membership.* Having no beneficial feature to demand funds for charitable purposes, it required no such fund, and as the plan did not seem to contemplate any systematic or stated meetings, or even the sub-division of the Order into "Councils," no provision had been made for room-rent. No fees or dues whatever were charged upon the members, the whole system relying on voluntary contributions for its pecuniary support. The groundwork had been laid out for an immense army, with a general and staff at the head, but without companies, regiments, or even a commissariat.

The first requisite was members, the next a more solid and consecutive system of organization. It was evident that the plan, once well organized, pruned, and adapted more strictly to the republican spirit of the people, would afford a powerful auxiliary in promoting and disseminating the theory and demands of the American policy.

.....

Immediate measures were taken to increase the membership, and for that purpose the Chapters of the Order of United Americans were prolific of material. Meetings of the new Order were held at various places, almost every evening, and at each meeting many were added to its membership. Committees were soon formed, with proper dispensations to initiate members, and thus, nightly, two or three of these committees were engaged in the work of recruiting, and in less than four months the membership amounted to about *one thousand persons*.

.....

A system of national, State, and subordinate, or local councils was adopted, and several other amendments perfected in accordance with the necessities of a wide-spread and numerous organization. The effect was immediately visible. Like a vast body of pent up waters when the floodgates have burst asunder, the membership poured forth in torrents: — councils were founded in the several wards of the city, thence in the interior counties of the State. Soon after the order was planted in some of the adjoining States, and eventually in every State and territory under the jurisdiction of the United States. The organization of the order in the several States occurred in the following order.

In New York, April 4, 1852. State Council formed, December 7, 1853.

In New Jersey, April, 1853. State Council, November, 1853.

In Vermont, (Date unknown.)

In Maryland, May 22, 1853. State Council, October 14, 1853.

In Connecticut, July, 1853. State Council, November, 1853.

In Massachusetts, September 6, 1853. State Council, October, 1853.

In Pennsylvania, December 10, 1853. State Council, in spring of 1854.

In Ohio, in the fall of 1853.

In Washington, D. C., January 23, 1854.

In New Hampshire, February 6, 1854. State Council, June, 1854.

In Indiana, State Council formed, February, 1854.

In Rhode Island, March, 1854. State Council, July 10, 1854.

In Maine, March, 1854. State Council, July, 1854.

- In Alabama, State Council, April or May, 1854.
- In Georgia, May, 1854. State Council same year.
- In Illinois, May 25, 1854. State Council, June 18, 1854.
- In Michigan, June 2, 1854. State Council same month.
- In Iowa, July 26, 1854. State Council, October 5, 1854.
- In Wisconsin, State Council, August 30, 1854.
- In North Carolina, August or September, 1854.
- In South Carolina, State Council, October 2, 1854.
- In Kentucky, State Council, August, 1854.
- In Missouri, State Council, September, 1854.
- In Tennessee, State Council, October, 1854.
- In Virginia, (Date unknown.)
- In Delaware, State Council, October, 1854.
- In Mississippi, State Council, November, 1854.
- In Texas, State Council, fall of 1854.
- In Florida, State Council, December, 1854.
- In Arkansas, State Council, December, 1854.
- In California, State Council, formed fall of 1854.
- In Louisiana. (In this State there are two organizations; the first was started early in 1854; this has been repudiated by the National Council as spurious. The second, which is recognized as legitimate, was organized in September, 1854.)
- In Oregon, September, 1854.
- In Minnesota, State Council, formed in May, 1855.
- In New Mexico, Kansas, and Nebraska the order was established during the spring and summer of 1855.

Thus, in about three years from the organization of the first council in the city of New York, we find this extraordinary political society, not only established, but exerting a powerful influence in every State and territory of the whole Union, and numbering in its membership at least *one and a half million of legal voters!* And among its adherents—the open advocates and exponents of its principles, we find many of the brightest intelligences, the ablest statesmen, and the purest patriots of the land.

.....

The principles which actuated the order were precisely the principles which actuated the American party in 1834 and 1844, and the objects sought to be obtained by the order were the objects sought to be obtained by that party. The success of the experiment has proven conclusively that when the popular mind is left untrammelled by partisan influences, and free to exercise its own proper functions, away from the corrupting sophistry of the demagogue, the patriotic sentiment

will prevail, and a stern, inflexible spirit of *nationality* will preponderate over the mercenary or factional demands of a mere party.

The advent of this organization was most opportune for the peace of the country, and the maintenance of the Union of States. The old parties had already exhausted their legitimate resources of cohesion, and become *effete*, and their components were gradually dissolving into a sectional slime, whose stagnant and fetid odors would have been poisonous to the national health. Already the current of political fraternity had ceased to flow across the geographical line, dividing the Northern from the Southern States, and as a natural result of estrangement, sectional hostilities were being engendered in their most noxious form. National parties had ceased to exist, except *pro forma*, and the whole political blood of the country was running in adverse directions, the one portion into a channel of aggression upon the sovereignty of the States, and the other into that of disunion. The advent of the American organization opened a new avenue to intersectional harmony. It broke down the imaginary line of Mason and Dixon, and re-established political inter-communication between the North and the South; it stoutly declared against both of the opposing factions, and fearlessly stood forth the advocate of State sovereignty, and the foe of the spirit of disunion.

156. THE REPUBLICAN PLATFORM OF 1856

Political Text Book for 1860, p. 22, *New York, 1860.*

PLATFORM:

THIS Convention of Delegates, assembled in pursuance of a call addressed to the people of the United States, without regard to past political differences or divisions, who are opposed to the repeal of the Missouri Compromise, to the policy of the present Administration, to the extension of Slavery into Free Territory; in favor of admitting Kansas as a Free State, of restoring the action of the Federal Government to the principles of Washington and Jefferson, and who purpose to unite in presenting candidates for the offices of President and Vice-President, do resolve as follows:

Resolved, That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution is essential to the preservation of our Republican Institutions, and that the Federal Constitution, the rights of the States, and the Union of the States, shall be preserved.

Resolved, That with our republican fathers we hold it to be a self-

evident truth, that all men are endowed with the inalienable rights to life, liberty, and the pursuit of happiness, and that the primary object and ulterior designs of our Federal Government were, to secure these rights to all persons within its exclusive jurisdiction; that, as our republican fathers, when they had abolished Slavery in all our national territory, ordained that no person should be deprived of life, liberty or property without due process of law, it becomes our duty to maintain this provision of the Constitution against all attempts to violate it for the purpose of establishing Slavery in any territory of the United States, by positive legislation, prohibiting its existence or extension therein. That we deny the authority of Congress, of a territorial legislature, of any individual or association of individuals, to give legal existence to Slavery in any territory of the United States, while the present Constitution shall be maintained.

Resolved, That the Constitution confers upon Congress sovereign power over the territories of the United States for their government, and that in the exercise of this power it is both the right and the duty of Congress to prohibit in the territories those twin relics of barbarism — Polygamy and Slavery.

Resolved, That while the Constitution of the United States was ordained and established by the people in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, and secure the blessings of liberty, and contains ample provisions for the protection of the life, liberty and property of every citizen, the dearest constitutional rights of the people of Kansas have been fraudulently and violently taken from them — their territory has been invaded by an armed force — spurious and pretended legislative, judicial and executive officers have been set over them, by whose usurped authority, sustained by the military power of the Government, tyrannical and unconstitutional laws have been enacted and enforced — . . . murders, robberies and arsons have been instigated and encouraged, and the offenders have been allowed to go unpunished — that all these things have been done with the knowledge, sanction and procurement of the present Administration, and that for this high crime against the Constitution, the Union and Humanity, we arraign the Administration, the President, his advisers, agents, supporters, apologists and accessories, either before or after the facts, before the country and before the world, and that it is our fixed purpose to bring the actual perpetrators of these atrocious outrages, and their accomplices, to a sure and condign punishment hereafter.

Resolved, That Kansas should be immediately admitted as a State of the Union, with her present free Constitution, as at once the most effectual way of securing to her citizens the enjoyment of the rights

and privileges to which they are entitled; and of ending the civil strife now raging in her territory.

Resolved, That the highwayman's plea, that "might makes right," embodied in the Ostend Circular, was in every respect unworthy of American diplomacy, and would bring shame and dishonor upon any government or people that gave it their sanction.

Resolved, That a railroad to the Pacific Ocean, by the most central and practicable route, is imperatively demanded by the interests of the whole country, and that the Federal Government ought to render immediate and efficient aid in its construction; and, as an auxiliary thereto, the immediate construction of an emigrant route on the line of the railroad.

Resolved, That appropriations by Congress for the improvement of rivers and harbors, of a national character, required for the accommodation and security of our existing commerce, are authorized by the Constitution, and justified by the obligation of government to protect the lives and property of its citizens.

157. THE LECOMPTON CONSTITUTION

The Lecompton Constitution was passed by a convention meeting at Lecompton, Kansas, September 4, 1857, chosen at an election at which the free state men had refused to vote. The constitution was drawn to protect slavery, and the only question referred to the voters was the constitution "with slavery" or "without slavery." Again the free state men refused to vote; the constitution "with slavery" was adopted and came to Congress for acceptance. After a bitter party struggle, Congress finally passed the English Act, No. 158.

Poore, Federal and State Constitutions, Vol. 1, pp. 598-612.

.....

ARTICLE VII.

SLAVERY

SECTION 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever.

SEC. 2. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons

as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the *bona-fide* property of such emigrants: And *provided also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 3. In the prosecution of slaves for crimes of higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 4. Any person who shall maliciously dismember or deprive a slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

.....

BILL OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare —

1. That all freemen, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive separate public emoluments or privileges but in consideration of public services.

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23. Free negroes shall not be permitted to live in this State under any circumstances.

.....

SCHEDULE.

.....

Before this constitution shall be sent to Congress, asking for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval, as follows: The president of this convention shall, by proclamation, de-

clare that on the twenty-first day of December, one thousand eight hundred and fifty seven, at the different election-precincts now established by law, or which may be established as herein provided, in the Territory of Kansas, an election shall be held, . . at which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll-books by two clerks, by them appointed. The ballots cast at said election shall be endorsed, "Constitution with slavery," and "Constitution with no slavery." One of said poll-books shall be returned within eight days to the president of this convention, and the other shall be retained by the judges of election and kept open for inspection. The president, with two or more members of this convention, shall examine said poll-books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the "Constitution with slavery," he shall immediately have the same transmitted to the Congress of the United States, as hereinbefore provided; but if, upon such examination of said poll-books, it shall appear that a majority of the legal votes cast at said election be in favor of the "Constitution with no slavery," then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall in no manner be interfered with, and shall have transmitted the constitution, so ratified, . . to the Congress of the United States, as hereinbefore provided. . .

.....

SEC. 14. After the year one thousand eight hundred and sixty-four, whenever the legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each house concurring, to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the legislature shall, at its next regular session, call a convention, . . said delegates so elected shall meet within three months after said election for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves.

.....

Done in convention at Lecompton, in the Territory of Kansas, on the seventh day of November, in the year of our Lord one thousand eight hundred and fifty-seven, and of the Independence of the United States of America the eighty-second. In testimony whereof we have hereunto subscribed our names.

J. CALHOUN, *President*.

CHARLES J. McILVAINE, *Secretary*.

158. THE ENGLISH ACT

Approved May 4, 1858 the English Act provided for a referendum on the Lecompton Constitution, offering special inducements to the people of Kansas in the form of early statehood etc., to accept it. It was rejected by a vote of 11,812-1,926. Kansas waited until a Republican administration for statehood.

Statutes at Large of the United States, Vol. 11, Public Laws, pp. 269-272.

WHEREAS, the people of the Territory of Kansas, did, by a convention of delegates assembled at Lecompton on the seventh day of November, one thousand eight hundred and fifty-seven, for that purpose, form for themselves a constitution and State government, which constitution is republican; and *whereas*, at the same time and place, said convention did adopt an ordinance, . . and *whereas* the said constitution and ordinance have been presented to Congress by order of said convention, and admission of said Territory into the Union thereon as a State requested; and *whereas* said ordinance is not acceptable to Congress, and it is desirable to ascertain whether the people of Kansas concur in the changes in said ordinance, hereinafter stated, and desire admission into the Union as a State as herein proposed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Kansas be, and is hereby, admitted into the Union on an equal footing with the original States, in all respects whatever, but upon this fundamental condition precedent, namely: That the question of admission with the following proposition, in lieu of the ordinance framed at Lecompton, be submitted to a vote of the people of Kansas. . . First. That sections number sixteen and thirty-six in every township of public lands in said State . . shall be granted to said State for the use of schools. Second. That seventy-two sections of land shall be set apart

and reserved for the support of a State University. . . *Third.* That ten entire sections of land . . . shall be granted to said State for the purpose of completing the public buildings, . . . *Fourth.* That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use, . . . *Provided,* That no salt spring or land the right whereof is now vested in any individual . . . shall by this article be granted to said State. *Fifth.* That five per centum of the nett proceeds of sales of all public lands lying within said State which shall be sold by Congress after the admission of said State into the Union, . . . shall be paid to said State for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided,* The foregoing propositions herein offered are on the condition that said State of Kansas shall never interfere with the primary disposal of the lands of the United States, or with any regulations which Congress may find necessary for securing the title in said soil to *bonâ fide* purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents. *Sixth.* And that said State shall never tax the lands or property of the United States in that State.

At the said election the voting shall be by ballot, and by endorsing on his ballot, as each voter may be pleased, "Proposition accepted," or "Proposition rejected." Should a majority of the votes cast be for "Proposition accepted," the President of the United States, as soon as the fact is duly made known to him, shall announce the same by proclamation; and thereafter, . . . the admission of the State of Kansas into the Union upon an equal footing with the original States in all respects whatever shall be complete and absolute; and said State shall be entitled to one member in the House of Representatives in the Congress of the United States until the next census be taken by the Federal Government. But should a majority of the votes cast be for "Proposition rejected," it shall be . . . held that the people of Kansas do not desire admission into the Union with said constitution under the conditions set forth in said proposition: and in that event the people of said Territory are . . . empowered to form for themselves a constitution and State government, by the name of the State of Kansas . . . and may elect delegates for that purpose whenever . . . it is ascertained by a census . . . that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States; and whenever thereafter such delegates shall assemble in convention, they shall first

determine by a vote whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and, if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a State government, in conformity with the Federal Constitution, subject to such limitations and restrictions as to the mode and manner of its approval or ratification by the people of the proposed State as they may have prescribed by law, and shall be entitled to admission into the Union as a State under such constitution, thus fairly and legally made, with or without slavery, as said constitution may prescribe.

SEC. 2. *And be it further enacted*, That for the purpose of insuring, as far as possible, that the elections authorized by this act may be fair and free, the Governor, United States District Attorney, and Secretary of the Territory of Kansas, and the presiding officers of the two branches of its legislature, . . are hereby constituted a board of commissioners to carry into effect the provisions of this act, and to use all the means necessary and proper to that end. . . The election hereby authorized shall continue one day only, and shall not be continued later than sundown on that day. . .

SEC. 3. *And be it further enacted*, That in the election hereby authorized, all white male inhabitants of said Territory, over the age of twenty-one years, who possess the qualifications which were required by the laws of said Territory for a legal voter at the last general election for the members of the territorial legislature, and none others, shall be allowed to vote; and this shall be the only qualification required to entitle the voter to the right of suffrage in said election. . .

.....

APPROVED, May 4, 1858.

159. THE FREEPORT HERESY

August 27, 1858 at Freeport, Illinois in answer to a question of Lincoln's, Douglas announced the so-called "unfriendly legislation" theory to demonstrate the ability of the people in a territory to exclude slavery if they wished. Douglas had previously taken similar ground, but to this utterance was attached the name of "The Freeport Heresy." To the pro-slave group the doctrine branded Douglas as a deserter from the cause of slavery in the territories; thenceforth he had no chance of their support.

Illinois Historical Collections, *Lincoln Series*, Vol. 1, pp. 148, 152, 161. Springfield, 1908.

MR. LINCOLN'S SPEECH.

LADIES AND GENTLEMEN: On Saturday last, Judge Douglas and myself first met in public discussion. . . In the course of that opening argument Judge Douglas proposed to me seven distinct interrogatories. In my speech of an hour and a half, I attended to some other parts of his speech, and incidentally, as I thought, answered one of the interrogatories then. I then distinctly intimated to him that I would answer the rest of his interrogatories. . . I now propose that I will answer any of the interrogatories upon condition that he will answer questions from me not exceeding the same number. . .

I now proceed to propound to the Judge the interrogatories, . .

.....

Q. 2. Can the people of a United States Territory, in any lawful way, against the wish of any citizen of the United States, exclude slavery from its limits prior to the formation of a State constitution?

.....

MR. DOUGLAS'S REPLY.

LADIES AND GENTLEMEN:..

.....

The next question propounded to me by Mr. Lincoln is, Can the people of a Territory in any lawful way, against the wishes of any citizen of the United States, exclude slavery from their limits prior to the formation of a State constitution? I answer emphatically, as Mr. Lincoln has heard me answer a hundred times from every stump in Illinois, that in my opinion the people of a Territory can, by lawful means, exclude slavery from their limits prior to the formation of a State constitution. . . It matters not what way the Supreme Court may hereafter decide as to the abstract question whether slavery may or may not go into a Territory under the Constitution, the people have the lawful means to introduce it or exclude it as they please, for the reason that slavery cannot exist a day or an hour anywhere, unless it is supported by local police regulations. Those police regulations can only be established by the local legislature; and if the people are opposed to slavery, they will elect representatives to that body who will by unfriendly legislation effectually prevent the introduction of it into their midst. If, on the contrary, they are for it, their legislation will favor its

extension. Hence, no matter what the decision of the Supreme Court may be on that abstract question, still the right of the people to make a slave Territory or a free Territory is perfect and complete under the Nebraska bill...

160. SEWARD'S "IRREPRESSIBLE CONFLICT" SPEECH

This speech of Seward's delivered at Rochester, October 25, 1858 is important as showing the conviction of an old, sane, nationally known and trusted political leader as to the lengths to which the slavery controversy would go. Utterances of this sort by men of Seward's type were convincing the South that disunion was inevitable.

In George E. Baker, The Works of William H. Seward, pp. 289-302, Boston, 1884.

.....

THE main subject, then, is, whether the democratic party deserves to retain the confidence of the American people. In attempting to prove it unworthy, I think that I am not actuated by prejudices against that party, or by prepossessions in favor of its adversary; for I have learned, by some experience, that virtue and patriotism, vice and selfishness, are found in all parties, and that they differ less in their motives than in the policies they pursue.

Our country is a theatre, which exhibits, in full operation, two radically different political systems; the one resting on the basis of servile or slave labor, the other on the basis of voluntary labor of freemen.

The laborers who are enslaved are all negroes, or persons more or less purely of African derivation. But this is only accidental. The principle of the system is, that labor in every society, by whomsoever performed, is necessarily unintellectual, groveling and base; and that the laborer, equally for his own good and for the welfare of the state, ought to be enslaved. The white laboring man, whether native or foreigner, is not enslaved, only because he cannot, as yet, be reduced to bondage.

.....

... One of the chief elements of the value of human life is freedom in the pursuit of happiness. The slave system is not only intolerable, unjust, and inhuman, towards the laborer, whom, only because he is a laborer, it loads down with chains and converts into merchandise, but is scarcely less severe upon the freeman, to whom, only because he

is a laborer from necessity, it denies facilities for employment, and whom it expels from the community because it cannot enslave and convert him into merchandise also. . .

The slave system is one of constant danger, distrust, suspicion, and watchfulness. It debases those whose toil alone can produce wealth and resources for defense, to the lowest degree of which human nature is capable, to guard against mutiny and insurrection, and thus wastes energies which otherwise might be employed in national development and aggrandizement.

The free-labor system educates all alike, and by opening all the fields of industrial employment, and all the departments of authority, to the unchecked and equal rivalry of all classes of men, at once secures universal contentment, and brings into the highest possible activity all the physical, moral and social energies of the whole state. In states where the slave system prevails, the masters, directly or indirectly, secure all political power, and constitute a ruling aristocracy. In states where the free-labor system prevails, universal suffrage necessarily obtains, and the state inevitably becomes, sooner or later, a republic or democracy.

Russia yet maintains slavery, and is a despotism. Most of the other European states have abolished slavery, and adopted the system of free labor. It was the antagonistic political tendencies of the two systems which the first Napoleon was contemplating when he predicted that Europe would ultimately be either all Cossack or all republican. Never did human sagacity utter a more pregnant truth. The two systems are at once perceived to be incongruous. But they are more than incongruous — they are incompatible. They never have permanently existed together in one country, and they never can. . .

Hitherto, the two systems have existed in different states, but side by side within the American Union. . . Thus, these antagonistic systems are continually coming into closer contact, and collision results.

Shall I tell you what this collision means? . . It is an irrepressible conflict between opposing and enduring forces, and it means that the United States must and will, sooner or later, become either entirely a slaveholding nation, or entirely a free-labor nation. Either the cotton and rice-fields of South Carolina and the sugar plantations of Louisiana will ultimately be tilled by free labor, and Charleston and New Orleans become marts for legitimate merchandise alone, or else the rye-fields and wheat-fields of Massachusetts and New York must again be surrendered by their farmers to slave culture and to the production of slaves, and Boston and New York become once more markets for trade in the bodies and souls of men. . . Startling as this saying may

appear to you, fellow citizens, it is by no means an original or even a moderate one. Our forefathers knew it to be true, and unanimously acted upon it when they framed the constitution of the United States. . . They knew that either the one or the other system must exclusively prevail.

Unlike too many of those who in modern time invoke their authority, they had a choice between the two. They preferred the system of free labor, and they determined to organize the government, and so to direct its activity, that that system should surely and certainly prevail. . . It is true that they necessarily and wisely modified this policy of freedom, by leaving it to the several states, affected as they were by differing circumstances, to abolish slavery in their own way and at their own pleasure, instead of confiding that duty to congress; and that they secured to the slave states, while yet retaining the system of slavery, a three-fifths representation of slaves in the federal government, until they should find themselves able to relinquish it with safety. . .

It remains to say on this point only one word, to guard against misapprehension. If these states are to again become universally slaveholding, I do not pretend to say with what violations of the constitution that end shall be accomplished. On the other hand, while I do confidently believe and hope that my country will yet become a land of universal freedom, I do not expect that it will be made so otherwise than through the action of the several states coöperating with the federal government, and all acting in strict conformity with their respective constitutions.

The strife and contentions concerning slavery, which gently-disposed persons so habitually deprecate, are nothing more than the ripening of the conflict which the fathers themselves not only thus regarded with favor, but which they may be said to have instituted.

It is not to be denied, however, that thus far the course of that contest has not been according to their humane anticipations and wishes. In the field of federal politics, slavery, deriving unlooked for advantages from commercial changes, and energies unforeseen from the facilities of combination between members of the slaveholding class and between that class and other property classes, early rallied, and has at length made a stand, not merely to retain its original defensive position, but to extend its sway throughout the whole Union. It is certain that the slaveholding class of American citizens indulge this high ambition, and that they derive encouragement for it from the rapid and effective political successes which they have already obtained. The plan of operation is this: By continued appliances of patronage and threats of disunion, they will keep a majority favorable to these designs

in the senate, where each state has an equal representation. Through that majority they will defeat, as they best can, the admission of free states and secure the admission of slave states. Under the protection of the judiciary, they will, on the principle of the Dred Scott case, carry slavery into all the territories of the United States now existing and hereafter to be organized. By the action of the president and the senate, using the treaty-making power, they will annex foreign slaveholding states. In a favorable conjuncture they will induce congress to repeal the act of 1808, which prohibits the foreign slave trade, and so they will import from Africa, at the cost of only twenty dollars a head, slaves enough to fill up the interior of the continent. Thus relatively increasing the number of slave states, they will allow no amendment to the constitution prejudicial to their interest; and so, having permanently established their power, they expect the federal judiciary to nullify all state laws which shall interfere with internal or foreign commerce in slaves. When the free states shall be sufficiently demoralized to tolerate these designs, they reasonably conclude that slavery will be accepted by those states themselves...

You will tell me that these fears are extravagant and chimerical. I answer, they are so; but they are so only because the designs of the slaveholders must and can be defeated. But it is only the possibility of defeat that renders them so. They cannot be defeated by inactivity. There is no escape from them, compatible with non-resistance. How, then, and in what way, shall the necessary resistance be made. There is only one way. The democratic party must be permanently dislodged from the government...

The very constitution of the democratic party commits it to execute all the designs of the slaveholders, whatever they may be. It is not a party of the whole Union, of all the free states and of all the slave states; nor yet is it a party of the free states in the north and in the northwest; but it is a sectional and local party, having practically its seat within the slave states, and counting its constituency chiefly and almost exclusively there. Of all its representatives in congress and in the electoral colleges, two-thirds uniformly come from these states. Its great element of strength lies in the vote of the slaveholders, augmented by the representation of three-fifths of the slaves. Deprive the democratic party of this strength, and it would be a helpless and hopeless minority, incapable of continued organization. The democratic party, being thus local and sectional, acquires new strength from the admission of every new slave state, and loses relatively by the admission of every new free state into the Union.

.....

To expect the democratic party to resist slavery and favor freedom, is as unreasonable as to look for protestant missionaries to the catholic propaganda of Rome. The history of the democratic party commits it to the policy of slavery. . . .

.....

... It has no policy, state or federal, for finance, or trade, or manufacture, or commerce, or education, or internal improvements, or for the protection or even the security of civil or religious liberty. It is positive and uncompromising in the interest of slavery — negative, compromising, and vacillating, in regard to everything else. It boasts its love of equality, and wastes its strength, and even its life, in fortifying the only aristocracy known in the land. It professes fraternity, and, so often as slavery requires, allies itself with proscription. It magnifies itself for conquests in foreign lands, but it sends the national eagle forth always with chains, and not the olive branch, in his fangs.

.....

I know, and you know, that a revolution has begun. I know, and all the world knows, that revolutions never go backward. Twenty senators and a hundred representatives proclaim boldly in congress to-day sentiments and opinions and principles of freedom which hardly so many men, even in this free state, dared to utter in their own homes twenty years ago. While the government of the United States, under the conduct of the democratic party, has been all that time surrendering one plain and castle after another to slavery, the people of the United States have been no less steadily and perseveringly gathering together the forces with which to recover back again all the fields and all the castles which have been lost, and to confound and overthrow, by one decisive blow, the betrayers of the constitution and freedom forever.

161. LINCOLN'S COOPER INSTITUTE SPEECH

NEW YORK, FEBRUARY 27, 1860

This speech, an able review of the question of slavery in its historical aspects was in reality Lincoln's introduction to the East as one who had been thought of as a presidential possibility.

In A. B. Lapsley, The Writings of Abraham Lincoln, Federal edition, Vol. 5, pp. 121-149. New York, 1906.

MR. PRESIDENT AND FELLOW-CITIZENS OF NEW YORK:—...

In his speech last autumn at Columbus, Ohio, as reported in the *New York Times*, Senator Douglas said:

"Our fathers, when they framed the Government under which we live, understood this question just as well, and even better than we do now."

I fully indorse this, and I adopt it as a text for this discourse... It simply leaves the inquiry: *What was the understanding those fathers had of the question mentioned?*

What is the frame of Government under which we live?

The answer must be — the Constitution of the United States...

Who were our fathers that framed the Constitution? I suppose the "thirty-nine" who signed the original instrument may be fairly called our fathers who framed that part of the present Government...

.....

What is the question which, according to the text, those fathers understood "just as well, and even better than we do now"?

It is this: Does the proper division of local from Federal authority, or anything in the Constitution, forbid *our Federal Government* to control as to slavery in *our Federal Territories*?

Upon this Senator Douglas holds the affirmative, and Republicans the negative. This affirmation and denial form an issue, and this issue — this question — is precisely what the text declares our fathers understood "better than we."

Let us now inquire whether the "thirty-nine," or any of them, acted upon this question; and if they did, how they acted upon it — how they expressed that better understanding.

.....

... The true number of those of the "thirty-nine" whom I have shown to have acted upon the question which, by the text, they understood better than we, is twenty-three, leaving sixteen not shown to have acted upon it in any way.

...and twenty-one of them — a clear majority of the whole "thirty-nine" — so acting upon it as to make them guilty of gross political impropriety and wilful perjury, if, in their understanding, any proper division between local and Federal authority, or anything in the Constitution they had made themselves, and sworn to support, forbade the Federal Government to control as to slavery in the Federal Territories...

Two of the twenty-three voted against Congressional prohibition of slavery in the Federal Territories, in the instances in which they acted upon the question. But for what reasons they so voted is not known... they may, ... have voted against the prohibition on what appeared to them to be sufficient grounds of expediency. . . It therefore would be unsafe to set down even the two who voted against the prohibition as having done so because, in their understanding, any proper division of local from Federal authority, or anything in the Constitution, forbade the Federal Government to control as to slavery in Federal territory.

The remaining sixteen of the "thirty-nine," so far as I have discovered, have left no record of their understanding upon the direct question of Federal control on slavery in the Federal Territories. But there is much reason to believe that their understanding upon that question would not have appeared different from that of their twenty-three compeers, had it been manifested at all.

.....

The sum of the whole is, that of our thirty-nine fathers who framed the original Constitution, twenty-one — a clear majority of the whole — certainly understood that no proper division of local from Federal authority, nor any part of the Constitution, forbade the Federal Government to control slavery in the Federal Territories; whilst all the rest probably had the same understanding. Such, unquestionably, was the understanding of our fathers who framed the original Constitution; and the text affirms that they understood the question "better than we."

.....

It is surely safe to assume that the thirty-nine framers of the original Constitution, and the seventy-six members of the Congress which framed the amendments thereto, taken together, do certainly include those who may be fairly called "our fathers who framed the Government under which we live." And, so assuming, I defy any man to show that any one of them ever, in his whole life, declared that, in his understanding, any proper division of local from Federal authority, or any part of the Constitution, forbade the Federal Government to control as to slavery in the Federal Territories. I go a step further. I defy any one to show that any living man in the world ever did, prior to the beginning of the present century (and I might almost say prior to the beginning of the last half of the present century), declare that, in his understanding, any proper division of local from Federal authority, or any part of the Constitution, forbade the Federal Govern-

ment to control as to slavery in the Federal Territories. To those who now so declare, I give not only "our fathers who framed the Government under which we live," but with them all other living men within the century in which it was framed, among whom to search, and they shall not be able to find the evidence of a single man agreeing with them.

.....

And now, if they would listen — as I suppose they will not — I would address a few words to the Southern people.

I would say to them: You consider yourselves a reasonable and a just people; and I consider that in the general qualities of reason and justice you are not inferior to any other people. Still, when you speak of us Republicans, you do so only to denounce us as reptiles, or, at the best, as no better than outlaws. You will grant a hearing to pirates or murderers, but nothing like it to "Black Republicans." .. Bring forward your charges and specifications, and then be patient long enough to hear us deny or justify.

You say we are sectional. We deny it. That makes an issue; and the burden of proof is upon you. You produce your proof; and what is it? Why, that our party has no existence in your section — gets no votes in your section. The fact is substantially true; but does it prove the issue? If it does, then in case we should, without change of principle, begin to get votes in your section, we should thereby cease to be sectional . . . you will probably soon find that we have ceased to be sectional, for we shall get votes in your section this very year. You will then begin to discover, as the truth plainly is, that your proof does not touch the issue. . . If our principle, put in practice, would wrong your section for the benefit of ours, or for any other object, then our principle, and we with it, are sectional, . . Meet us, then, on the question of whether our principle, put in practice, would wrong your section; . . Then you really believe that the principle which "our fathers who framed the Government under which we live" thought so clearly right as to adopt it, and indorse it again and again, upon their official oaths, is in fact so clearly wrong as to demand your condemnation without a moment's consideration.

.....

But you say you are conservative — eminently conservative — while we are revolutionary, destructive, or something of the sort. What is conservatism? Is it not adherence to the old and tried, against a new and untried? We stick to, contend for, the identical old policy on the

point in controversy which was adopted by "our fathers who framed the Government under which we live"; while you with one accord reject, and scout, and spit upon that old policy and insist upon substituting something new. . . . Some of you are for reviving the foreign slave trade; some for a Congressional slave code for the Territories; some for Congress forbidding the Territories to prohibit slavery within their limits; some for maintaining slavery in the Territories through the judiciary; some for the "gur-reat pur-rinciple" that "if one man would enslave another, no third man should object," fantastically called "popular sovereignty"; but never a man among you in favor of Federal prohibition of slavery in Federal Territories, according to the practice of "our fathers who framed the Government under which we live." Not one of all your various plans can show a precedent or an advocate in the century within which our Government originated. . .

.....

You charge that we stir up insurrections among your slaves. We deny it; and what is your proof? Harper's Ferry! John Brown!! John Brown was no Republican; and you have failed to implicate a single Republican in his Harper's Ferry enterprise. If any member of our party is guilty in that matter, you know it or you do not know it. If you do know it, you are inexcusable for not designating the man and proving the fact. If you do not know it, you are inexcusable for asserting it, and especially for persisting in the assertion after you have tried and failed to make the proof. You need not be told that persisting in a charge which one does not know to be true is simply malicious slander.

.....

Slave insurrections are no more common now than they were before the Republican party was organized. . .

.....

In the language of Mr. Jefferson, uttered many years ago, "It is still in our power to direct the process of emancipation and deportation peaceably, and in such slow degrees as that the evil will wear off insensibly, and their places be, *pari passu*, filled up by free white laborers. If, on the contrary, it is left to force itself on, human nature must shudder at the prospect held up."

Mr. Jefferson did not mean to say, nor do I, that the power of emancipation is in the Federal Government. He spoke of Virginia; and, as to the power of emancipation, I speak of the slaveholding States only. The Federal Government, however, as we insist, has the power

of restraining the extension of the institution — the power to insure that a slave insurrection shall never occur on any American soil which is now free from slavery.

.....

A few words now to Republicans: *It is exceedingly desirable that all parts of this great confederacy shall be at peace and in harmony one with another. Let us Republicans do our part to have it so. Even though much provoked, let us do nothing through passion and ill temper. Even though the Southern people will not so much as listen to us, let us calmly consider their demands, and yield to them if, in our deliberate view of our duty, we possibly can...*

...what will satisfy them? ..

... This, and this only: cease to call slavery *wrong*, and join them in calling it *right*. And this must be done thoroughly — done in *acts* as well as in *words*. Silence will not be tolerated — we must place ourselves avowedly with them... We must arrest and return their fugitive slaves with greedy pleasure. We must pull down our free State constitutions. The whole atmosphere must be disinfected from all taint of opposition to slavery, before they will cease to believe that all their troubles proceed from us.

.....

Wrong as we think slavery is, we can yet afford to let it alone where it is, because that much is due to the necessity arising from its actual presence in the nation; but can we, while our votes will prevent it, allow it to spread into the national Territories, and to overrun us here in these free States? If our sense of duty forbids this, then let us stand by our duty, fearlessly and effectively...

Neither let us be slandered from our duty by false accusations against us, nor frightened from it by menaces of destruction to the Government nor of dungeons to ourselves. LET US HAVE FAITH THAT RIGHT MAKES MIGHT, AND IN THAT FAITH LET US, TO THE END, DARE TO DO OUR DUTY AS WE UNDERSTAND IT.

162. THE CHARLESTON CONVENTION

The account from which the following extracts are taken was compiled by Murat Halstead, one of the greatest of American journalists and himself an eye witness of the Conventions, from correspondence to

his paper, the Cincinnati Commercial, and from the official records. He had the eye of a keen and impartial reporter.

Murat Halstead, *Caucuses of 1860*, pp. 1-74. Columbus, 1860.

THE Hon. Stephen A. Douglas was the pivot individual of the Charleston Convention. Every delegate was for or against him. Every motion meant to nominate or not to nominate him. Every parliamentary war was *pro* or *con* Douglas.

On the route to Charleston, delegates and others who were proceeding to attend the Convention, talked about Mr. Douglas. The questions in every car and at every station, were: Would he be? could he be? should he be nominated? Could he get a majority of the Convention? could he get two-thirds? Would the South support him if he should be nominated? Would the Administration acquiesce if he were nominated?

.....

[The following extract from a letter... will give an idea of the spirit of Southerners when *en route* for the Convention:]

.....

SOCIAL CIRCLE, GA., April 18th.

We have had warm times among the delegates to the Convention since our stop here. A conversation commenced at the dinner table about Douglas. There was a delegate from Indiana and an outsider from Kentucky, sitting very near a couple of Mississippians, delegates, friends of Jeff. Davis, and "fire-eaters," as we term them. Some private whiskey was passed, and the Mississippians drank to "the health of the nominee." The question was asked whether that included Douglas. . . Now, the Mississippians do intend to bolt Douglas if he is nominated, and hence they were touched, and took fire. Controversy ran high. The Indianian was asked what he meant by "Southern fanatics and fire-eaters" — an expression he had used — and he said, "such men as Jeff. Davis." This was touching the Mississippians on a tender point. . . Indiana claimed the same right to criticise Davis that Mississippi had to criticise Douglas. Mississippi denied that. "Davis was a patriot, and Douglas was a traitor, d——d little better than Seward — that was the difference." . . The feeling excited by this controversy, was warm and general. The delegates who did not mix in, shook their heads and talked of stormy times ahead, and the peril in which the party would be placed. It was manifest that if the Mississippian and the Indianian were joint representative men of their sections, there

was little chance for the nomination of a candidate who could, by any possibility, be elected, or of the construction of a platform that would be even superficially satisfactory...

... In a conversation with an Alabama delegate to-day, I told him I presumed the South would have to put up with another platform capable of a double construction; he declared that impossible. I inquired — "Don't you see the Douglas delegates don't agree with you, and can't and won't agree with you? Do you not know that if they went home to make a fight on the platform you insist they shall place themselves upon, they would be beaten in every Northern State and every Northern township, and that the majority against them in all the Northern States would only be counted by tens of thousands?"

No, he did not know any such thing. Mayor Wood was a "sound man," and had carried the city of New York. He was as sound as any Southern man. Connecticut would have been carried by the Democracy if there had not been so much pandering to Douglasism. The way to fight a battle was to fight it on principle. If the North was not willing to stand squarely up for the Constitution with the South, it was high time the fact were known. This campaign was the test campaign. It must be fought on principle... What was the Democratic party for if it was not for the vindication of the great constitutional principles upon which our governmental fabric rests?

.....

FIRST DAY.

INSTITUTE HALL,
Charleston, S. C., April 23d.

... Judge Smalley arises and calls the Convention to order. He states the business of the Convention with the utmost simplicity, omitting, as was agreeable to every body, the opportunity afforded of making an "able and eloquent" speech. He calls for the nomination of a President, *pro tem*. Mr. Flournoy of Arkansas was nominated by McCook of Ohio. There was no opposition...

.....

The ultra-South was guilty of a very foolish thing to-day. They made a bitter fight on a question, when there was no possible chance of doing any thing. The Convention was against them six to one, and yet they struggled with as much energy as if they expected to accomplish something wonderful. In this way they lost prestige in the Convention.

They threw themselves away without sufficient cause. If they continue this style of performance Douglas will be the nominee at last. . .

.....

SECOND DAY.

MORNING SESSION.

INSTITUTE HALL, April 24th.

There is an impression prevalent this morning that the Convention is destined to explode in a grand row. The best informed and most dispassionate men are unable to see how such a termination of this party congress can be avoided. The Southern delegates last night, in caucus assembled, resolved to stand by the Jeff. Davis resolutions. There is tumult and war in prospect. The first thing in order after calling the Convention to order, was the report of the committee on Permanent Organization, made by Mr. Cessna of Pennsylvania, its chairman, as follows:

FOR PRESIDENT:

Hon. CALEB CUSHING, of Mass.

.....

... The chair ... put the question as to the adoption of so much of the report as related to the organization exclusively. That part of the report was then adopted, and the permanent officers installed. . .

Before leaving the chair Mr. Flournoy uncorked a speech — the memorable passages of which were references to “ eternal icebergs and everlasting frosts.” . .

Mr. Flournoy introduced Mr. Cushing, who was received with warm applause, though the Douglas men dislike him intensely. . .

... When Mr. Cushing was introduced he seemed for the moment slightly nervous, and in a heat. He was dressed in a short, brown, sack coat, grey pants, and black satin vest. Considering the amount of intellectual labor he has performed, he seems in a remarkably fine state of preservation. He is partially bald, but not at all gray. Such hair as he possesses has the gloss of youth and bear’s grease. He uses a plain eye-glass, suspended about his neck by a black ribbon. His hands are brown as a laborer’s. He evidently preserves himself by out-door exercise. His head is round and lofty; the forehead high and full; nose straight and sharp; lips thin and expressive of intellectual consciousness and pluck, and his face shows very few wrinkles. His voice is clear, musical, and powerful; every syllable of his speech was heard in every

part of the house. The Convention is fortunate in having a presiding officer so accomplished.

.....

CHARLESTON, S. C., April 25th (at night).

The Convention is now ready for the great business upon which it has come together — that of constructing a platform and nominating a candidate. The committee on Platform is now in session, and in agony no doubt, with the various ambiguous resolutions before it. The case is very simple. There is, to begin with, an irreconcilable difference in the doctrines respecting slavery in the Territories between the Northern and Southern wings of the Democratic party. The platform must be drawn with elaborate ambiguity, and capable of two constructions, or the party must be divided.

.....

INSTITUTE HALL, Charleston, S. C., April 27th.

The crisis which was to have arrived yesterday, was postponed by the failure of the committee on Platform to report. The committee, when the Convention came together this morning, was still unprepared.

The reports were not made until half-past eleven o'clock, when Mr. Avery of North Carolina presented the following from a majority of the committee on Resolutions:

MAJORITY REPORT.

Resolved, That the platform adopted at Cincinnati be affirmed, with the following resolutions:

1. *Resolved*, That the Democracy of the United States hold these cardinal principles on the subject of slavery in the Territories: First, That Congress has no power to abolish slavery in the Territories. Second, That the Territorial Legislature has no power to abolish slavery in any Territory, nor to prohibit the introduction of slaves therein, nor any power to exclude slavery therefrom, nor any right to destroy or impair the right of property in slaves by any legislation whatever.

2. *Resolved*, That the enactments of State Legislatures to defeat the faithful execution of the Fugitive Slave law are hostile in character, subversive of the Constitution, and revolutionary in their effect.

3. *Resolved*, That it is the duty of the Federal Government to protect, when necessary, the rights of persons and property on the high-seas, in the Territories, or wherever else its constitutional authority extends.

4. *Resolved*, That the Democracy of the nation recognize it as the impera-

tive duty of this Government to protect the naturalized citizen in all his rights, whether at home or in foreign lands, to the same extent as its native-born citizens.

5. *Resolved*, That the National Democracy earnestly recommend the acquisition of the Island of Cuba, at the earliest practicable period.

Whereas, that one of the greatest necessities of the age, in a political, commercial, postal and military point of view, is a speedy communication between the Pacific and Atlantic coasts: Therefore, be it

Resolved, That the National Democratic party do hereby pledge themselves to use every means in their power to secure the passage of some bill for the construction of a Pacific Railroad, from the western line of the Mississippi River to the Pacific Ocean, at the earliest practicable moment.

Mr. Avery was instructed, as chairman of the committee, to report this Platform. He was further instructed to say that entire unanimity did not prevail on a portion of the resolutions.

The first and third resolutions in relation to slavery in the Territories, and the duty of the General Government to protect the right of person and property, were adopted by a bare majority of the committee. The second resolution, in relation to the Fugitive Slave law, and the fourth resolution, in relation to naturalized citizens, were adopted unanimously, and the fifth resolution, in relation to the acquisition of Cuba, was adopted without a division. The last resolution of the series, in reference to the Pacific Railroad, was adopted by a majority vote.

Mr. Payne of Ohio submitted the

MINORITY REPORT.

The undersigned, a minority of the committee on Resolutions, regretting their inability to concur with the report of the majority of your committee, feel constrained to submit the following as their report, and recommend its adoption as a substitute for the report of the majority.

.....

... The resolutions are as follows:

1. *Resolved*, That we, the Democracy of the Union, in Convention assembled, hereby declare our affirmance of the resolutions unanimously adopted and declared as a platform of principles by the Democratic Convention at Cincinnati in the year 1856, believing that Democratic principles are unchangeable in their nature when applied to the same subject-matters; and we recommend, as the only further resolutions, the following:

2. *Resolved*, That all questions in regard to the rights of property in States or Territories arising under the Constitution of the United States are judicial in their character, and the Democratic party is pledged to abide by and faith-

fully carry out such determination of these questions as has been or may be made by the Supreme Court of the United States. . .

.....

A dreary discussion followed. Mr. Avery spoke first, . .

.....

Mr. Payne of Ohio defended the minority report. He made a vigorous speech, deeply earnest, and strongly fortified his position by extracts from the speeches of Southern gentlemen. . .

.....

Gen. Butler of Massachusetts proceeded to dissect both platforms, and did it with an incisive ferocity that was refreshing to behold. The Cincinnati Platform had had two interpretations placed upon it, eh! So had the Bible and the Constitution of the United States. Gentlemen could not construct a platform that would not have a double interpretation.

The "rights of persons and property on the high-seas" to the protection of the Federal Government, were asserted by Gen. Butler to be capable of a construction, showing it to assert the duty of Government to protect the African slave-trade. The General was assured that the South did not mean that, but the construction could not be got rid of. It would adhere, and would, if it were adopted, do the Northern Democracy incalculable mischief. Gen. Butler was right in this. The resolution asserts the duty of Government to protect slavery in the Territories no more clearly than its duty to protect the slave-trade on the high-seas, and such, doubtless, was the intention of the writer of the resolutions.

.....

The Convention adjourned when Gen. Butler concluded his speech, taking a recess until four o'clock. . .

.....

The first thing after the Convention was called to order in the afternoon, was a speech from Mr. Barksdale, editor of the *Mississippian*, which was a clear, well-expressed, shrewd, and keen ultra-Southern speech, demanding the protection of slavery in the Territories, and insisting upon adhering to principle rather than consulting expediency.

.....

Mr. King of Missouri, an old Tom Benton Democrat, who has only recently repented of associations with Frank Blair, B. Gratz Brown and Co., followed. He made an ultra-Douglas speech, indorsing the Northern Democracy in the most unqualified manner. He told the South that their demand for the protection of slavery in the Territories would, if persisted in, result in a Black Republican Congress, which would give them such protection as wolves gave lambs.

.....

Mr. Yancey of Alabama rose to reply and received a perfect ovation. The hall for several minutes rang with applause. It appeared at once that the outside pressure was with the fire-eaters.

Mr. Yancey is a very mild and gentlemanly man, always wearing a genuinely good-humored smile, and looking as if nothing in the world could disturb the equanimity of his spirits. He commenced by saying that no time could be more appropriate for an Alabamian to be heard, than after the strange and unnatural speech they had just heard from a son of the South (Mr. King). . . . There was no question after he had been upon the platform a few minutes, that he was a man of remarkable gifts of intellect and captivating powers as a speaker. He reviewed the differences on the slavery question of the Democracy. He charged that the defeats of the Democracy in the North were to be traced to the pandering by the party in the free States to anti-slavery sentiments; they had not come up to the high ground which must be taken on the subject, in order to defend the South—namely, that slavery was right. . . . He pronounced false all charges that the State of Alabama, himself or his colleagues, were in favor of a dissolution of the Union *per se*. But he told the Democracy of the North that they must, in taking high constitutional ground, go before the people of the North and tell them of the inevitable dissolution of the Union if constitutional principles did not prevail at the ballot-boxes. . . .

He distinctly admitted that the South did ask of the Northern Democracy an advanced step in vindication of Southern rights; and Mr. Yancey's hour and a half closed while he was in the midst of a series of lofty periods, and Mr. Pugh of Ohio sprung to his feet. . . .

Mr. Pugh took the platform in a condition of considerable warmth. There was an effort made to adjourn, but the crowd was eager for the fray, and insisted that Pugh should go on. He did so, thanking God that a bold and honest man from the South had at last spoken, and told the whole truth of the demands of the South. It was now before the Convention and the country, that the South did demand an advanced step from the Democratic party. . . . Mr. Pugh said that his political life was almost over, and so far as he was personally concerned, he did not

regret it. He then traced the downfall of the Northern Democracy, and the causes of that fall, charging the South with it. And now the Northern Democracy were taunted by the South with weakness. And here, it seemed, the Northern Democracy, because they were in the minority, were thrust back and told in effect they must put their hands on their mouths, and their mouths in the dust. "Gentlemen of the South," said Mr. Pugh, "you mistake us — you mistake us — we will not do it." ..

.....

He spoke of the sacrifice of the Northern Democrats of their political lives, battling for the doctrine of the South, now scornfully repudiated; and pointed out among the delegates, men who had been Senators and Representatives, and who had fallen in the fight. In conclusion, he stated the Democracy, who were prepared to stand by the old faith, would be sorry to part with their Southern friends, but if the gentlemen from the South could only stay on the terms proposed, they must go. The Democracy of the North-west would make itself heard and felt. The Northern Democrats were not children under the pupilage of the South, and to be told to stand here and there, and moved at the beck and bidding of the South. The hall was still, as it was understood that Pugh was the spokesman of Douglas, and that the fate of the Democratic party was in issue.

.....

The chair recognized the motion of adjournment, and a vote by States was called for, and an adjournment carried by a small majority — yeas, 158½; nays, 143. . .

The Convention separated in a bad humor. There was a call on the Southerners to remain and consult. . . Every body said that there would necessarily be an explosion in the morning. . . During the evening, as it was known that "the crisis" could not much longer be put off, despatches were flying between Washington and Charleston. The Southern members of Congress were telling the delegates from their States that they must go out with Alabama. Toombs telegraphed to the Georgians that they must not stay after Alabama went out. Gartell did the same thing. The South Carolinians also sent dispatches, saying that the Palmetto delegates must not be outstripped in the race of zeal for Southern rights and independence. .

.....

CHARLESTON, S. C., *Monday*, April 30th.

The Convention came together this morning with a curious mingling of despair of accomplishing any thing, and hope that something

will turn up, hope as illogical as those everlasting anticipations of Mr. Micawber.

I am not stating the case over-strongly, when I say there is a general consciousness that the Convention is making so bad a record, that its deliberations are becoming of little importance, so impossible will it be to defend any conclusion likely to be reached, before the country. The Democratic party has here furnished to its enemies the ammunition that will enable them to annihilate the preposterous pretensions which it has for some years put forth. The scenes around me are those of the dissolution of the Democratic organization.

.....

I have several times this morning heard the remark, "The President will be nominated at Chicago." ..

.....

And now came the tug of war — the crucial test — on the adoption of the minority, or Douglas-Popular Sovereignty-Supreme Court-ambiguous, report. . .

.....

The States were then called on the motion to adopt the minority resolutions in lieu of the majority report, and they were adopted by the following vote:

YEAS — Maine 8, New Hampshire 5, Vermont 5, Massachusetts 7, Rhode Island 4, Connecticut 6, New York 35, New Jersey 5, Pennsylvania 12, Maryland 3½, Virginia 1, Missouri 4, Tennessee 1, Kentucky 2½, Ohio 23, Indiana 13, Illinois 11, Michigan 6, Wisconsin 5, Iowa 4, Minnesota 4 — 165.

NAYS — Massachusetts 6, New Jersey 2, Pennsylvania 15, Delaware —, Maryland 4½, Virginia 14, North Carolina 10, South Carolina 8, Georgia 10, Florida 3, Alabama 9, Louisiana 6, Mississippi 7, Texas 4, Arkansas 4, Missouri 5, Tennessee 11, Kentucky 9½, Michigan 10, California 4, Oregon 3 — 138.

There was one more straight vote required to clinch the thing — that was a majority vote on the platform as amended by the substitution of the minority report. Mr. Butler moved for a division of the proposition, and moved for as much of it as indorsed the Cincinnati Platform simply. the chair ruled that each substantive and intelligible proposition (?) could be taken separately. The crisis was now, after long postponement, at hand. In calling the vote on the reaffirmation of the Cincinnati Platform, a delegate from Mississippi arose, his face livid with excitement, and said that Mississippi, believing the Cin-

cinnati Platform to be a miserable swindle on one side of the house or the other, voted no. Arkansas followed — and the cotton States generally came into line under the lead of Mississippi. Under Mr. Butler's motion and the ruling of the chair, there was a vote on the first resolution of the series, thus:

1. *Resolved*, That we, the Democracy of the Union, in Convention assembled, hereby declare our affirmance of the resolutions unanimously adopted and declared as a Platform of Principles by the Democratic Convention at Cincinnati, in the year 1856, believing that Democratic principles are unchangeable in their nature, when applied to the same subject-matters,

It was carried as follows:

YEAS... 237½.

NAYS... 65...

Mr. Ewing of Tennessee called for a separate vote on the following preamble and resolution:

Inasmuch as differences of opinion exist in the Democratic party as to the nature and extent of the powers of a Territorial Legislature, and as to the powers and duties of Congress, under the Constitution of the United States, over the institution of slavery within the Territories:

Resolved, That the Democratic party will abide by the decisions of the Supreme Court of the United States on the questions of constitutional law.

.....

The vote was announced, and the preamble and resolutions were rejected.

.....

A division was called on all the remaining resolutions, and they were severally adopted; that relating to the rights of naturalized citizens receiving a unanimous vote, even in this divided Convention. The resolutions adopted, in addition to the Cincinnati Platform, are as follows:

3. *Resolved*, That it is the duty of the United States to afford ample and complete protection to all its citizens, whether at home or abroad, and whether native or foreign.

4. *Resolved*, That one of the necessities of the age, in a military, commercial and postal point of view, is speedy communication between the Atlantic and Pacific States; and the Democratic party pledge such constitutional Government aid as will insure the construction of a Railroad to the Pacific coast, at the earliest practicable period.

5. *Resolved*, That the Democratic party are in favor of the acquisition of the Island of Cuba, on such terms as shall be honorable to ourselves and just to Spain.

6. *Resolved*, That the enactments of State Legislatures to defeat the faithful execution of the Fugitive Slave law, are hostile in character, subversive of the Constitution, and revolutionary in their effect.

Mr. Stuart of Michigan now procured the floor, and made a very irritating speech, exceedingly ill-timed, unless he intended to drive out the Gulf States, and he has been accused of entertaining such purpose.

.....

And now commenced the regular stampede. Alabama led the Southern column. Mr. Walker of that State, . . called the attention of the house to a communication from the State of Alabama, which he proposed to read from the clerk's desk. There was a shudder of excitement, an universal stir over the house, and then for the first time during the day, profound stillness. Mr. W. proceeded to give the reasons which had influenced Alabama to retire from the Convention at that point. They were, first, the instructions of the Alabama Convention; second, the conviction the delegation felt that it was its duty to retire, as justice had not been done the South. When he concluded, which he did by stating that there could not thereafter be any representation from the State of Alabama in that Convention, the delegation left their seats and made their way to various points, where they took position as spectators. Mississippi went next, with less formality but more vim. Her declarations of the manner in which the Northern Democracy had been found wanting, and of her purposes, were exceedingly explicit. The Northern Democracy had been found anxious to dodge the issues before the country. That would never do for Mississippi. She cast her fortunes with those of her sister State, Alabama. Mr. Glenn of Mississippi mounted a chair, and facing the Ohio delegation, which sat directly behind Mississippi, made one of the most impassioned and thrilling twenty-minute speeches to which I have ever listened. It was evident that every word was from his deepest convictions. He was pale as ashes, and his eyes rolled and glared, as he told the gentlemen from Ohio how far they were from doing their duty now, and how kindly he felt toward them, and how they would have to take position yet upon the high ground of the South, or it would be all in vain that they would attempt to arrest the march of Black Republicanism. For the present, they must go their ways, and the South must go her ways. He declared, too, with piercing emphasis, that in less than sixty days there would be an United South; and at this declaration there was the most enthusiastic shouting yet heard in the Convention. The South Carolinians cheered loud and long, and the tempest of applause made the circuit of the galleries and the floor several times

before it subsided. There was a large number of ladies present, and they favored the secessionists with their sweetest smiles, and with nods and glances of approval, a delighted fluttering of fans and parasols, and even occasional clapping of hands.

.....

In the course of the disruption, notice was given that all who sympathized with the movement should meet at St. Andrew's Hall at seven o'clock in the evening.

When the Convention adjourned, the people stood in groups on the corners, and even in the middle of the streets. The outside pressure was for the seceders, and Southern feeling runs high. It is now believed that nearly the whole South will go out, and that there may be an attempt made to organize two "National Democratic" parties. I presume this will be done. The Douglas men are swearing vengeance to-night not loud but deep, and the North-western States say they will nominate him if they have to do it themselves.

163. THE CHICAGO CONVENTION

See introduction to No. 162.

Halstead, Caucuses of 1860, pp 120-151.

CHICAGO, May 15.

.....

THE crowd is this evening becoming prodigious. The Tremont House is so crammed that it is with much difficulty people get about in it from one room to another. Near fifteen hundred people will sleep in it to-night. The principal lions in this house are Horace Greeley and Frank P. Blair, Sen. The way Greeley is stared at as he shuffles about, looking as innocent as ever, is itself a sight. Whenever he appears there is a crowd gaping at him, and if he stops to talk a minute with some one who wishes to consult him as the oracle, the crowd becomes dense as possible, and there is the most eager desire to hear the words of wisdom that are supposed to fall on such occasions.

.....

The city of Chicago is attending to this Convention in magnificent style. It is a great place for large hotels, and all have their capacity for accommodation tested. The great feature is the *Wigwam*, erected within the past month, expressly for the use of the Convention, by the

Republicans of Chicago, at a cost of seven thousand dollars. It is a small edition of the New York Crystal Palace, built of boards, and will hold ten thousand persons comfortably — and is admirable for its accoustic excellence. An ordinary voice can be heard through the whole structure with ease.

.....

CHICAGO, May 16th.

.....

The current of the universal twaddle this morning is, that "Old Abe" will be the nominee.

The Bates movement, the McLean movement, the Cameron movement, the Banks movement, are all nowhere. They have gone down like lead in the mighty waters. "Old Abe" and "Old Ben" are in the field against Seward. Abe and Ben are representatives of the conservatism, the respectability, the availability, and all that sort of thing.

.....

The Hon. Edward D. Morgan of New York, Chairman of the National Republican Executive Committee, called the Convention to order, and read the call under which it had been summoned. He concluded by nominating the Hon. David Wilmot for temporary President. Mr. Wilmot, upon taking the chair, made a very positive anti-slavery speech. A committee on Permanent Organization was constituted...

.....

... Convention adjourned until 5 P.M.

Upon reassembling, the report of the committee on Permanent Organization was in order and made. The Hon. Geo. Ashmun, the presiding officer, was escorted to his chair by Preston King and Carl Schurz, the one short and round as a barrel and fat as butter, the other tall and slender. The contrast was a curious one, and so palpable that the whole multitude saw it, and gave a tremendous cheer. Mr. Ashmun was speedily discovered to be an excellent presiding officer. His clear, full-toned voice was one refreshing to hear amid the clamors of a Convention. He is cool, clear-headed and executive, and will despatch business. He is a treasure to the Convention, and will lessen and shorten its labors...

.....

The Convention adjourned without transacting any further business. The question on which every thing turns is whether Seward can be

nominated. His individuality is the pivot here, just as that of Douglas was at Charleston.

.....

REPUBLICAN WIGWAM,

Chicago, May 17, 1860.

Masses of people poured into town last night and this morning, expecting the nomination to be made to-day, and desiring to be present..

.....

There were many expressions of a desire to proceed at once to business. But the moment the committee on Rules reported, it was seen that there was to be an "irrepressible conflict" raging through the day, about preliminary matters. The majority reported that a majority of the votes of the whole Electoral College of the Union, should be required to nominate candidates for President and Vice-President. The minority report was that a majority of the votes in the Convention only, should be required to nominate.

.....

The report of the committee on Rules was taken up, and after interesting speeches made on both sides, the fourth rule of the majority report was amended by substituting the minority report, which was that a simple majority should nominate —...

.....

The platform was now reported. The platform was received with immense enthusiasm. Several sections, at the demand of the audience, were read twice. Pennsylvania went into spasms of joy over the "Tariff Plank," her whole delegation rising and swinging hats and canes.

.....

Mr. Giddings — Mr. President, I propose to offer, after the first resolution as it stands here, as a declaration of principles, the following:

That we solemnly reassert the self-evident truths that all men are endowed by their Creator with certain inalienable rights, among which are those of life, liberty and the pursuit of happiness [cheers]; that governments are instituted among men to secure the enjoyment of these rights.

The first resolution was as follows:

Resolved, That we, the delegated representatives of the Republican electors of the United States, in Convention assembled, in discharge of the duty we owe to our constituents and our country, unite in the following declarations.

The second section of the Platform as originally reported was in these words:

2. That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution, is essential to the preservation of our Republican institutions; and that the Federal Constitution, the rights of the States, and the Union of the States, must and shall be preserved.

Mr. Giddings made a short speech in favor of his amendment, concluding:

Now, I propose to maintain the doctrines of our fathers. I propose to maintain the fundamental and primal issues upon which the government was founded. I will detain this Convention no longer. I offer this because our party was formed upon it. It grew upon it. It has existed upon it—and when you leave out this truth you leave out the party.

Mr. Carter called for the reading of the second section of the platform. It was read. Giddings's amendment was voted down. The old man quickly rose, and made his way slowly toward the door. A dozen delegates begged him not to go. But he considered every thing lost, even honor. His Philadelphia Platform has not been re-affirmed. The "twin relics" were not in the new creed. And now the Declaration of Independence had been voted down! He must go. He got along as far as the New York delegation, where he was comforted by assurances that the Declaration would be tried again; but he left the Convention—actually seceded in sorrow and anger.

.....

Mr. Curtis of New York obtained the floor and said:

I then offer as an amendment to the report, as presented by the committee, the following: That the second clause of the report shall read, "That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution"—and then, sir, I propose to amend by adding these words, "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed"—then proceed—"is essential to the preservation of our Republican institutions; and that the Federal Consti-

tution, the Rights of the States, and the Union of the States, must and shall be preserved." [Great applause, and many gentlemen struggling for the floor.]

.....

Mr. Curtis made a short speech. He said:

I have to ask this Convention whether they are prepared to go upon the record and before the country as voting down the words of the Declaration of Independence? [Cries of "No," "no," and applause.] I ask gentlemen gravely to consider that in the amendment which I have proposed, I have done nothing that the soundest and safest man in all the land might not do; and I rise simply — for I am now sitting down — I rise simply to ask gentlemen to think well before, upon the free prairies of the West, in the summer of 1860, they dare to wince and quail before the men who in Philadelphia, in 1776 — in Philadelphia, in the Arch-Keystone State, so amply, so nobly represented upon this platform to-day — before they dare to shrink from repeating the words that these great men enunciated. [Terrific applause.]

This was a strong appeal and took the Convention by storm. It was a great personal triumph for Curtis. His classical features, literary fame, pleasing style as a speaker, and the force of his case, called attention to him, and gave him the ear of the Convention, and gave him the triumph. And the Declaration again became part of the platform of the Republican party.

THE PLATFORM

now stood:

Resolved, That we, the delegated representatives of the Republican electors of the United States, in Convention assembled, in discharge of the duty we owe to our constituents and our country, unite in the following declarations:

1. That the history of the nation during the last four years, has fully established the propriety and necessity of the organization and perpetuation of the Republican party, and that the causes which called it into existence are permanent in their nature, and now, more than ever before, demand its peaceful and constitutional triumph.

2. That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution, "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed," is essential to the preservation of our Republican institutions; and that the Federal Constitution, the Rights of the States, and the Union of the States, must and shall be preserved.

3. That to the Union of the States this nation owes its unprecedented increase in population, its surprising development of material resources, its rapid augmentation of wealth, its happiness at home, and its honor abroad; and we hold in abhorrence all schemes for Disunion, come from whatever source they may: And we congratulate the country that no Republican member of Congress has uttered or countenanced the threats of Disunion so often made by Democratic members, without rebuke and with applause from their political associates; and we denounce those threats of disunion, in case of a popular overthrow of their ascendancy as denying the vital principles of a free government, and as an avowal of contemplated treason, which it is the imperative duty of an indignant People sternly to rebuke and forever silence.

4. That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of powers on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes.

5. That the present Democratic Administration has far exceeded our worst apprehensions, in its measureless subserviency to the exactions of a sectional interest, as especially evinced in its desperate exertions to force the infamous Lecompton Constitution upon the protesting people of Kansas; in construing the personal relation between master and servant to involve an unqualified property in persons; in its attempted enforcement, everywhere, on land and sea, through the intervention of Congress and of the Federal Courts, of the extreme pretensions of a purely local interest; and in its general and unvarying abuse of the power intrusted to it by a confiding people.

6. That the people justly view with alarm the reckless extravagance which pervades every department of the Federal Government; that a return to rigid economy and accountability is indispensable to arrest the systematic plunder of the public treasury by favored partisans; while the recent startling developments of frauds and corruptions at the Federal metropolis, show that an entire change of administration is imperatively demanded.

7. That the new dogma that the Constitution, of its own force, carries slavery into any or all of the Territories of the United States, is a dangerous political heresy, at variance with the explicit provisions of that instrument itself, with contemporaneous exposition, and with legislative and judicial precedent; is revolutionary in its tendency, and subversive of the peace and harmony of the country.

8. That the normal condition of all the territory of the United States is that of freedom: That as our Republican fathers, when they had abolished slavery in all our national territory, ordained that "no person should be deprived of life, liberty, or property, without due process of law," it becomes our duty, by legislation, whenever such legislation is necessary, to maintain this provision of the Constitution against all attempts to violate it; and we deny the authority of Congress, of a Territorial Legislature, or of any

individuals, to give legal existence to slavery in any Territory of the United States.

9. That we brand the recent re-opening of the African slave-trade, under the cover of our national flag, aided by perversions of judicial power, as a crime against humanity and a burning shame to our country and age; and we call upon Congress to take prompt and efficient measures for the total and final suppression of that execrable traffic.

10. That in the recent vetoes, by their Federal Governors, of the acts of the Legislatures of Kansas and Nebraska, prohibiting slavery in those Territories, we find a practical illustration of the boasted Democratic principle of Non-Intervention and Popular Sovereignty embodied in the Kansas-Nebraska bill, and a demonstration of the deception and fraud involved therein.

11. That Kansas should, of right, be immediately admitted as a State under the Constitution recently formed and adopted by her people, and accepted by the House of Representatives.

12. That, while providing revenue for the support of the General Government by duties upon imports, sound policy requires such an adjustment of these imposts as to encourage the development of the industrial interests of the whole country; and we commend that policy of national exchanges, which secures to the working men liberal wages, to agriculture remunerating prices, to mechanics and manufacturers an adequate reward for their skill, labor and enterprise, and to the nation commercial prosperity and independence.

13. That we protest against any sale or alienation to others of the Public Lands held by actual settlers, and against any view of the Free Homestead policy which regards the settlers as paupers or suppliants for public bounty; and we demand the passage by Congress of the complete and satisfactory Homestead measure which has already passed the House.

.....

So it was adopted. The vote was taken about six o'clock, and upon the announcement being made a scene ensued of the most astounding character. All the thousands of men in that enormous wigwam commenced swinging their hats, and cheering with intense enthusiasm, and the other thousands of ladies waved their handkerchiefs and clapped their hands. The roar that went up from that mass of ten thousand human beings under one roof was indescribable. Such a spectacle as was presented for some minutes has never before been witnessed at a Convention. A herd of buffaloes or lions could not have made a more tremendous roaring.

As the great assemblage poured through the streets after adjournment, it seemed to electrify the city. The agitation of the masses that pack the hotels and throng the streets, and are certainly forty thousand strong, was such as made the little excitement at Charleston seem insignificant.

The Convention adjourned without taking a ballot for President, as the tally-sheets were not prepared.

.....

The Seward men have been in high feather. They entertain no particle of doubt of his nomination in the morning. They have a champagne supper in their rooms at the Richmond House to-night, and have bands of music serenading the various delegations at their quarters. Three hundred bottles of champagne are said to have been cracked at the Richmond. This may be an exaggeration, but I am not inclined to think the quantity overstated, for it flowed freely as water.

.....

After adjournment on Thursday (the second day), there were few men in Chicago who believed it possible to prevent the nomination of Seward... The opponents of Mr. Seward left the wigwam that evening thoroughly disheartened. Greeley was, as has been widely reported, absolutely "terrified." The nomination of Seward in defiance of his influence, would have been a cruel blow. He gave up the ship, as appears from the following despatch to the New York Tribune:

GOV. SEWARD WILL BE NOMINATED.

CHICAGO, Thursday, May 17 — 11:40 P.M. — My conclusion, from all that I can gather to-night, is, that the opposition to Gov. Seward cannot concentrate on any candidate, and that he will be nominated.

H. G.

I telegraphed, about the same time, the same thing to the Cincinnati Commercial; and every one of the forty thousand men in attendance upon the Chicago Convention will testify that at midnight of Thursday-Friday night, the universal impression was that Seward's success was certain.

.....

But there was much done after midnight and before the Convention assembled on Friday morning. There were hundreds of Pennsylvanians, Indianians and Illinoisans, who never closed their eyes that night. I saw Henry S. Lane at one o'clock, pale and haggard, with cane under his arm, walking as if for a wager, from one caucus-room to another, at the Tremont House. He had been toiling with desperation to bring the Indiana delegation to go as a unit for Lincoln. And then in connection with others, he had been operating to bring

the Vermonters and Virginians to the point of deserting Seward. . . This was finally done, the fatal break in Seward's strength having been made in Vermont and Virginia, destroying at once, when it appeared, his power in the New England and the slave State delegations. But the work was not yet done. The Pennsylvanians . . . were for Cameron.¹ He was the only man, they a thousand times said, who would certainly carry Pennsylvania. They were astonished, alarmed, and maddened to find public opinion settling down upon Seward and Lincoln, and that one or the other must be nominated. . .

The Wade movement died before this time. It had a brilliant and formidable appearance for a while; but the fact that it originated at Washington was against it, and the bitterness of those delegates from Ohio, who would not in any event go for any man from that State other than Chase, and who declared war to the knife against Wade, and as a second choice were for Lincoln or Seward, stifled the Wade project.

.....

The cry of a want of availability which was from the start raised against Seward, now took a more definite form than heretofore. It was reported, and with a well-understood purpose, that the Republican candidates for Governor in Indiana, Illinois and Pennsylvania would resign, if Seward were nominated. Whether they really meant it or not, the rumor was well circulated, and the effect produced was as if they had been earnest. Henry S. Lane, candidate in Indiana, did say something of the kind. He asserted hundreds of times that the nomination of Seward would be death to him, and that he might in that case just as well give up the canvass. He did not feel like expending his time and money in carrying on a hopeless campaign, and would be disposed to abandon the contest.

. . . The Cameron men, discovering there was absolutely no hope for their man, but that either Seward or Lincoln would be nominated, and that speedily, and being a calculating company, were persuaded to throw their strength for Lincoln at such a time as to have credit of his nomination if it were made. . .

The Seward men generally abounded in confidence Friday morning. The air was full of rumors of the caucusing the night before, but the opposition of the doubtful States to Seward was an old story; . . The

¹ It has since appeared from a speech delivered by Mr. Cameron at Harrisburg, that Seward was his first choice and in his opinion could carry Pennsylvania. Nothing of the kind was heard of at Chicago.

Sewardites marched as usual from their head-quarters at the Richmond House after their magnificent band, which was brilliantly uniformed — epaulets shining on their shoulders, and white and scarlet feathers waving from their caps — marched under the orders of recognized leaders, in a style that would have done credit to many volunteer military companies. They were about a thousand strong, and protracting their march a little too far, were not all able to get into the wigwam. This was their first misfortune. They were not where they could scream with the best effect in responding to the mention of the name of William H. Seward.

When the Convention was called to order, breathless attention was given the proceedings. There was not a space a foot square in the wigwam unoccupied. There were tens of thousands still outside, and torrents of men had rushed in at the three broad doors until not another one could squeeze in.

.....

Every body was now impatient to begin the work. Mr. Evarts of New York nominated Mr. Seward. Mr. Judd of Illinois nominated Mr. Lincoln. Mr. Dudley of New Jersey nominated Mr. Dayton. Mr. Reeder of Pennsylvania nominated Simon Cameron. Mr. Cartter of Ohio nominated Salmon P. Chase. Mr. Caleb Smith of Indiana seconded the nomination of Lincoln. Mr. Blair of Missouri nominated Edward Bates. Mr. Blair of Michigan seconded the nomination of William H. Seward. Mr. Corwin of Ohio nominated John McLean. Mr. Schurz of Wisconsin seconded the nomination of Seward. Mr. Delano of Ohio seconded the nomination of Lincoln. The only names that produced "tremendous applause," were those of Seward and Lincoln.

Every body felt that the fight was between them, and yelled accordingly.

The applause, when Mr. Evarts named Seward, was enthusiastic. When Mr. Judd named Lincoln, the response was prodigious, rising and raging far beyond the Seward shriek. Presently, upon Caleb B. Smith seconding the nomination of Lincoln, the response was absolutely terrific. It now became the Seward men to make another effort, and when Blair of Michigan seconded his nomination,

"At once there rose so wild a yell,
Within that dark and narrow dell;
As all the fiends from heaven that fell
Had pealed the banner cry of hell."

The effect was startling. Hundreds of persons stopped their ears in pain. The shouting was absolutely frantic, shrill and wild. No Camanches, no panthers ever struck a higher note, or gave screams with more infernal intensity. Looking from the stage over the vast amphitheatre, nothing was to be seen below but thousands of hats — a black, mighty swarm of hats — flying with the velocity of hornets over a mass of human heads, most of the mouths of which were open. Above, all around the galleries, hats and handkerchiefs were flying in the tempest together. The wonder of the thing was, that the Seward outside pressure should, so far from New York, be so powerful.

Now the Lincoln men had to try it again, and as Mr. Delano of Ohio, on behalf "of a portion of the delegation of that State," seconded the nomination of Lincoln, the uproar was beyond description. Imagine all the hogs ever slaughtered in Cincinnati giving their death squeals together, a score of big steam whistles going (steam at 160 lbs. per inch), and you conceive something of the same nature. I thought the Seward yell could not be surpassed; but the Lincoln boys were clearly ahead, and feeling their victory, as there was a lull in the storm, took deep breaths all round, and gave a concentrated shriek that was positively awful, and accompanied it with stamping that made every plank and pillar in the building quiver.

Henry S. Lane of Indiana leaped upon a table, and swinging hat and cane, performed like an acrobat. The presumption is, he shrieked with the rest, as his mouth was desperately wide open; but no one will ever be able to testify that he has positive knowledge of the fact that he made a particle of noise. His individual voice was lost in the aggregate hurricane.

The New York, Michigan and Wisconsin delegations sat together, and were in this tempest very quiet. Many of their faces whitened as the Lincoln *yawp* swelled into a wild hosanna of victory.

The Convention now proceeded to business. The New England States were called first, and it was manifest that Seward had not the strength that had been claimed for him there. Maine gave nearly half her vote for Lincoln. New Hampshire gave seven out of her ten votes for Lincoln. Vermont gave her vote to her Senator Collamer, which was understood to be merely complimentary. It appeared, however, that her delegation was hostile or indifferent to Seward, otherwise there would have been no complimentary vote to another. Massachusetts was divided. Rhode Island and Connecticut did not give Seward a vote. So much for the caucusing the night before. Mr. Evarts of New York rose and gave the vote of that State, calmly, but with a swelling tone of pride in his voice — "The State of *New York* casts

her *seventy votes* for *William H. Seward!* " The seventy votes was a plumper, and there was slight applause, and that rustle and vibration in the audience indicating a sensation. The most significant vote was that of Virginia, which had been expected solid for Seward, and which now gave him but eight and gave Lincoln fourteen. The New Yorkers looked significantly at each other as this was announced. Then Indiana gave her twenty-six votes for Lincoln. This solid vote was a startler, and the keen little eyes of Henry S. Lane glittered as it was given. He was responsible for it. It was his opinion that the man of all the land to carry the State of Indiana, was Judge John McLean. He also thought Bates had eminent qualifications. But when he found that the contest was between Seward and Lincoln, he worked for the latter as if life itself depended upon success. The division of the first vote caused a fall in Seward stock. It was seen that Lincoln, Cameron and Bates had the strength to defeat Seward, and it was known that the greater part of the Chase vote would go for Lincoln.

.....

The Secretary announced the vote:

William H. Seward, of New York	173 $\frac{1}{2}$
Abraham Lincoln, of Illinois	102
Edward Bates, of Missouri	48
Simon Cameron, of Pennsylvania	50 $\frac{1}{2}$
John McLean, of Ohio	12
Salmon P. Chase, of Ohio	49
Benjamin F. Wade, of Ohio	3
William L. Dayton, of New Jersey	14
John M. Reed, of Pennsylvania	1
Jacob Collamer, of Vermont	10
Charles Sumner, of Massachusetts	1
John C. Fremont, of California	1

Whole number of votes cast, 465; necessary to a choice, 233.

The Convention proceeded to a second ballot. Every man was fiercely enlisted in the struggle. The partisans of the various candidates were strung up to such a pitch of excitement as to render them incapable of patience, and the cries of "Call the roll" were fairly hissed through their teeth. The first gain for Lincoln was in New Hampshire. The Chase and the Fremont vote from that State were given him. His next gain was the whole vote of Vermont. This was a blighting blow upon the Seward interest. The New Yorkers started as if an Orsini bomb had exploded. And presently the Cameron vote of Pennsylvania

was thrown for Lincoln, increasing his strength forty-four votes. The fate of the day was now determined. New York saw "checkmate" next move, and sullenly proceeded with the game, assuming unconsciousness of her inevitable doom. On this ballot Lincoln gained seventy-nine votes! Seward had $184\frac{1}{2}$ votes; Lincoln 181.

.....

(Great confusion while the ballot was being counted.)

The Secretary announced the result of the second ballot as follows:

For William H. Seward of New York, $184\frac{1}{2}$ votes. [Applause.]

For Abraham Lincoln of Illinois, 181 votes. [Tremendous applause, checked by the Speaker.]

For Edward Bates of Missouri, 35 votes.

For Simon Cameron of Pennsylvania, 2 votes.

For John McLean of Ohio, 8 votes.

For Salmon P. Chase of Ohio, $42\frac{1}{2}$ votes.

For William L. Dayton of New Jersey, 10 votes.

For Cassius M. Clay of Kentucky, 2 votes.

Whole number of votes cast, 465; necessary to a choice, 233.

It now dawned upon the multitude, that the presumption, entertained the night before, that the Seward men would have every thing their own way, was a mistake. . .

THIRD BALLOT

.....

While this ballot was taken amid excitement that tested the nerves, the fatal defection from Seward in New England still further appeared — four votes going over from Seward to Lincoln in Massachusetts. The latter received four additional votes from Pennsylvania and fifteen additional votes from Ohio. It was whispered about — "Lincoln's the coming man — will be nominated this ballot." When the roll of States and Territories had been called, I had ceased to give attention to any votes but those for Lincoln, and had his vote added up as it was given. The number of votes necessary to a choice were two hundred and thirty-three, and I saw under my pencil as the Lincoln column was completed, the figures $231\frac{1}{2}$ — one vote and a half to give him the nomination. In a moment the fact was whispered about. A hundred pencils had told the same story. The news went over the house wonderfully, and there was a pause. There are always men anxious to distinguish themselves on such occasions. There is nothing that politicians like better than a crisis. I looked up to see who would

be the man to give the decisive vote. . . In about ten ticks of a watch, Cartter of Ohio was up. I had imagined Ohio would be slippery enough for a crisis. And sure enough! Every eye was on Cartter, and every body who understood the matter at all, knew what he was about to do. . . He had been quite noisy during the sessions of the Convention, but had never commanded, when mounting his chair, such attention as now. He said, "I rise (eh), Mr. Chairman (eh), to announce the change of four votes of Ohio from Mr. Chase to Mr. Lincoln." The deed was done. There was a moment's silence. The nerves of the thousands, which through the hours of suspense had been subjected to terrible tension, relaxed, and as deep breaths of relief were taken, there was a noise in the wigwam like the rush of a great wind, in the van of a storm — and in another breath, the storm was there. There were thousands cheering with the energy of insanity.

A man who had been on the roof, and was engaged in communicating the results of the ballotings to the mighty mass of outsiders, now demanded by gestures at the sky-light over the stage, to know what had happened. One of the Secretaries, with a tally sheet in his hands, shouted — "Fire the Salute! Abe Lincoln is nominated!" As the cheering inside the wigwam subsided, we could hear that outside, where the news of the nomination had just been announced. And the roar, like the breaking up of the fountains of the great deep that was heard, gave a new impulse to the enthusiasm inside. Then the thunder of the salute rose above the din, and the shouting was repeated with such tremendous fury that some discharges of the cannon were absolutely not heard by those on the stage. Puffs of smoke, drifting by the open doors, and the smell of gunpowder, told what was going on.

.....

When the vote was declared, Mr. Evarts, the New York spokesman, mounted the Secretaries' table and handsomely and impressively expressed his grief at the failure of the Convention to nominate Seward — and in melancholy tones, moved that the nomination be made unanimous.

.....

After a rather dull speech from Mr. Browning of Illinois, responding in behalf of Lincoln, the nomination was made unanimous, and the Convention adjourned for dinner. The town was full of the news of Lincoln's nomination, and could hardly contain itself. There were bands of music playing, and processions marching, and joyous cries heard on every hand, from the army of trumpeters for Lincoln of

Illinois, and the thousands who are always enthusiastic on the winning side. But hundreds of men who had been in the wigwam were so prostrated by the excitement they had endured, and their exertions in shrieking for Seward or Lincoln, that they were hardly able to walk to their hotels. There were men who had not tasted liquor, who staggered about like drunkards, unable to manage themselves. The Seward men were terribly stricken down. They were mortified beyond all expression, and walked thoughtfully and silently away from the slaughter-house, more ashamed than embittered. They acquiesced in the nomination, but did not pretend to be pleased with it; and the tone of their conversations, as to the prospect of electing the candidate, was not hopeful. It was their funeral, and they would not make merry. . .

164. BUCHANAN'S VETO OF THE HOMESTEAD BILL

The Homestead Act was a final step in liberality to the pioneer, allowing the moneyless man to carve himself a farm out of the public lands. The measure finally became a law in 1862. Buchanan states with ability the arguments against the policy, in the following veto of an earlier Homestead bill June 22, 1860.

Richardson, Messages and Papers of the Presidents, Vol. 5, pp. 608-614.

To the Senate of the United States:

I RETURN with my objections to the senate, in which it originated, the bill entitled "An act to secure homesteads to actual settlers on the public domain, and for other purposes," presented to me on the 20th instant.

This bill gives to every citizen of the United States "who is the head of a family," and to every person of foreign birth residing in the country who has declared his intention to become a citizen, though he may not be the head of a family, the privilege of appropriating to himself 160 acres of Government land, of settling and residing upon it for five years; and should his residence continue until the end of this period, he shall then receive a patent on the payment of 25 cents per acre, or one-fifth of the present Government price. During this period the land is protected from all the debts of the settler. . .

1. This state of the facts raises the question whether Congress, under the Constitution, has the power to give away the public lands either to States or individuals. On this question I expressed a decided opinion in my message to the House of Representatives of the 24th February, 1859, returning the agricultural-college bill. This opinion remains unchanged. . .

I presume the general proposition will be admitted that Congress does not possess the power to make donations of money already in the Treasury, raised by taxes on the people, either to States or individuals. . .

2. It will prove unequal and unjust in its operation among the actual settlers themselves.

The first settlers of a new country are a most meritorious class. They brave the dangers of savage warfare, suffer the privations of a frontier life, and with the hand of toil bring the wilderness into cultivation. The "old settlers," as they are everywhere called, are public benefactors. This class have all paid for their lands the Government price, or \$1.25 per acre. . . Is it just, is it equal, that after they have accomplished all this by their labor new settlers should come in among them and receive their farms at the price of 25 or 18 cents per acre? Surely the old settlers, as a class, are entitled to at least equal benefits with the new. . .

3. This bill will do great injustice to the old soldiers who have received land warrants for their services in fighting the battles of their country. It will greatly reduce the market value of these warrants. . .

4. This bill will prove unequal and unjust in its operation, because from its nature it is confined to one class of our people. It is a boon exclusively conferred upon the cultivators of the soil. . . The mechanic who emigrates to the West and pursues his calling must labor long before he can purchase a quarter section of land, whilst the tiller of the soil who accompanies him obtains a farm at once by the bounty of the Government. . .

6. This bill will open one vast field for speculation. Men will not pay \$1.25 for lands when they can purchase them for one-fifth of that price. Large numbers of actual settlers will be carried out by capitalists upon agreements to give them half of the land for the improvement of the other half. . .

7. . . Our laws welcome foreigners to our shores, and their rights will ever be respected. Whilst these are the sentiments on which I have acted through life, it is not, in my opinion, expedient to proclaim to all the nations of the earth that whoever shall arrive in this country from a foreign shore and declare his intention to become a citizen shall receive a farm of 160 acres at a cost of 25 or 20 cents per acre if he will only reside on it and cultivate it. The invitation extends to all, and if this bill becomes a law we may have numerous actual settlers from China and other Eastern nations enjoying its benefits on the great Pacific Slope. The bill makes a distinction in favor of such persons over native and naturalized citizens. When applied to such citizens, it is confined to such as are the heads of families, but when applicable

to persons of foreign birth recently arrived on our shores there is no such restriction. . .

8. The bill creates an unjust distinction between persons claiming the benefit of the preemption laws. . .

9. The effect of this bill on the public revenue must be apparent to all. Should it become a law, the reduction of the price of land to actual settlers to 25 cents per acre, with a credit of five years, and the reduction of its price to existing preemptors to $62\frac{1}{2}$ cents per acre, with a credit of two years, will so diminish the sale of other public lands as to render the expectation of future revenue from that source, beyond the expenses of survey and management, illusory. . .

10. This bill lays the ax at the root of our present admirable land system. The public land is an inheritance of vast value to us and to our descendants. . . Any man can now acquire a title in fee simple, to a homestead of 80 acres, at the minimum price of \$1.25 per acre, for \$100. Should the present system remain, we shall derive a revenue from the public lands of \$10,000,000 per annum, when the bounty-land warrants are satisfied, without oppression to any human being. . . Why should we impair or destroy the system at the present moment? . .

The people of the United States have advanced with steady but rapid strides to their present condition of power and prosperity. They have been guided in their progress by the fixed principle of protecting the equal rights of all, whether they be rich or poor. No agrarian sentiment has ever prevailed among them. The honest poor man, by frugality and industry, can in any part of our country acquire a competence for himself and his family, and doing this he feels that he eats the bread of independence. He desires no charity, either from the Government or from his neighbors. This bill, which proposes to give him land at an almost nominal price out of the property of the Government, will go far to demoralize the people and repress this noble spirit of independence. It may introduce among us those pernicious social theories which have proved so disastrous in other countries.

JAMES BUCHANAN.

165. SOUTH CAROLINA ORDINANCE OF SECESSION

November 7, 1860, when the election of Lincoln was apparent the South Carolina legislature called a state convention, to meet December 17, 1860. December 20, the following ordinance was adopted without dissent.

Official Records of the Union and Confederate Armies, *Series 1*, Vol. 1, pp 110. Washington 1880.

THE STATE OF SOUTH CAROLINA:

At a Convention of the People of the State of South Carolina, begun and holden at Columbia on the seventeenth day of December, in the year of our Lord one thousand eight hundred and sixty, and thence continued by adjournment to Charleston, and there, by divers adjournments, to the twentieth of December in the same year:

AN ORDINANCE to dissolve the union between the State of South Carolina and other States united with her under the compact entitled "The Constitution of the United States of America":

We, the People of the State of South Carolina in convention assembled, do declare and ordain, and it is hereby declared and ordained, that the ordinance adopted by us in convention on the twenty-third day of May, in the year of our Lord one thousand seven hundred and eighty-eight, whereby the Constitution of the United States of America was ratified, and also all acts and parts of acts of the general assembly of this State ratifying amendments of the said Constitution, are hereby repealed; and that the union now subsisting between South Carolina and other States, under the name of the "United States of America," is hereby dissolved.

Done at Charleston the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty.

D. F. JAMISON,

*Delegate from Barnwell, and
President of the Convention, and others.*

Attest:

BENJAMIN F. ARTHUR,

Clerk of the Convention.

166. REPORT OF THE PEACE CONGRESS

The imminence of secession spurred moderate men to frame a new sectional compromise to save the Union. Most important among the early proposals were those of Senator Crittenden of Kentucky. They were dropped when the leaders of the seceding states discovered that the Republicans would not by accepting them, forego the fruits of their victory. January 19, 1861 Virginia called a peace Congress which met February 4, representing two-thirds of the states in the Union. It drew up the following proposals of constitutional amendment. In most re-

spects they resembled Crittenden's. As before, Lincoln would not abandon the platform of his party, and the hope of compromise died.

Senate Miscellaneous Documents, 36 Congress, 2 session, No. 20, pp. 1-3.

To the Congress of the United States:

THE convention assembled upon the invitation of the State of Virginia to adjust the unhappy differences which now disturb the peace of the Union and threaten its continuance, make known to the Congress of the United States that their body convened in the city of Washington on the 4th instant, and continued in session until the 27th.

There were in the body when action was taken upon that which is here submitted, one hundred and thirty-three commissioners, representing the following States: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Tennessee, Kentucky, Missouri, Ohio, Indiana, Illinois, Iowa, Wisconsin, and Kansas. They have approved what is herewith submitted, and respectfully request that your honorable body will submit it to conventions in the States, as article *thirteen* of the amendments to the Constitution of the United States.

Attest:

J. HENRY PULESTON,
Secretary.

ARTICLE 13.

SECTION 1. In all the present territory of the United States, north of the parallel of thirty-six degrees and thirty minutes of north latitude, involuntary servitude, except in punishment of crime, is prohibited. In all the present territory south of that line, the status of persons held to involuntary service or labor, as it now exists, shall not be changed; . . . When any Territory north or south of said line, within such boundary as Congress may prescribe, shall contain a population equal to that required for a member of Congress, it shall, if its form of government be republican, be admitted into the Union on an equal footing with the original States, with or without involuntary servitude, as the Constitution of such State may provide.

SECTION 2. No territory shall be acquired by the United States, . . . without the concurrence of a majority of all the Senators from States which allow involuntary servitude, and a majority of all the Senators from States which prohibit that relation; . . .

SECTION 3. Neither the Constitution, nor any amendment thereof, shall be construed to give Congress power to regulate, abolish, or control within any State the relation established or recognized by the laws thereof touching persons held to labor or involuntary service therein, nor to interfere with or abolish involuntary service in the District of Columbia without the consent of Maryland and without the consent of the owners, . . nor the power to interfere with or prohibit representatives and others from bringing with them to the District of Columbia, retaining and taking away, persons so held to labor or service; nor the power to interfere with or abolish involuntary service in places under the exclusive jurisdiction of the United States within those States and Territories where the same is established or recognized; nor the power to prohibit the removal or transportation of persons held to labor or involuntary service in any State or Territory of the United States to any other State or Territory thereof where it is established . . . and the right during transportation, by sea or river, of touching at ports, shores, and landings, and of landing in case of distress, shall exist; but not the right of transit in or through any State or Territory, or of sale or traffic, against the laws thereof. Nor shall Congress have power to authorize any higher rate of taxation on persons held to labor or service than on land.

The bringing into the District of Columbia of persons held to labor or service, for sale, . . is prohibited.

.....

SECTION 5. The foreign slave trade is hereby forever prohibited; and it shall be the duty of Congress to pass laws to prevent the importation of slaves, coolies, or persons held to service or labor, into the United States and the Territories from places beyond the limits thereof.

SECTION 6. The first, third, and fifth sections, together with this section of these amendments, and the third paragraph of the second section of the first article of the Constitution, and the third paragraph of the second section of the fourth article thereof, shall not be amended or abolished without the consent of all the States.

SECTION 7. Congress shall provide by law that the United States shall pay to the owner the full value of his fugitive from labor, in all cases where the marshal, or other officer, whose duty it was to arrest such fugitive, was prevented from so doing by violence . . . and the acceptance of such payment shall preclude the owner from further claim to such fugitive. Congress shall provide by law for securing to the citizens of each State the privileges and immunities of citizens in the several States.

167. LINCOLN'S FIRST INAUGURAL

March 4, 1861.

Richardson, Messages and Papers of the Presidents, Vol. 6, pp. 5-12.

Fellow-Citizens of the United States:

IN compliance with a custom as old as the Government itself, I appear before you to address you briefly and to take in your presence the oath prescribed by the Constitution of the United States to be taken by the President "before he enters on the execution of his office."

.....

Apprehension seems to exist among the people of the Southern States that by the accession of a Republican Administration their property and their peace and personal security are to be endangered. There has never been any reasonable cause for such apprehension. Indeed, the most ample evidence to the contrary has all the while existed and been open to their inspection. It is found in nearly all the published speeches of him who now addresses you. I do but quote from one of those speeches when I declare that —

I have no purpose, directly or indirectly, to interfere with the institution of slavery in the States where it exists. I believe I have no lawful right to do so, and I have no inclination to do so.

.....

It is seventy-two years since the first inauguration of a President under our National Constitution. During that period fifteen different and greatly distinguished citizens have in succession administered the executive branch of the Government. They have conducted it through many perils, and generally with great success. Yet, with all this scope of precedent, I now enter upon the same task for the brief constitutional term of four years under great and peculiar difficulty. A disruption of the Federal Union, heretofore only menaced, is now formidably attempted.

I hold that in contemplation of universal law and of the Constitution the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination. Continue to execute all the express provisions of our National Constitution, and the Union will endure

forever, it being impossible to destroy it except by some action not provided for in the instrument itself.

Again: If the United States be not a government proper, but an association of States in the nature of contract merely, can it, as a contract, be peaceably unmade by less than all the parties who made it? One party to a contract may violate it — break it, so to speak — but does it not require all to lawfully rescind it?

Descending from these general principles, we find the proposition that in legal contemplation the Union is perpetual confirmed by the history of the Union itself. The Union is much older than the Constitution. It was formed, in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured, and the faith of all the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution was "*to form a more perfect Union.*"

But if destruction of the Union by one or by a part only of the States be lawfully possible, the Union is *less* perfect than before the Constitution, having lost the vital element of perpetuity.

It follows from these views that no State upon its own mere motion can lawfully get out of the Union; that *resolves* and *ordinances* to that effect are legally void, and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances.

I therefore consider that in view of the Constitution and the laws the Union is unbroken, and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States. Doing this I deem to be only a simple duty on my part, and I shall perform it so far as practicable unless my rightful masters, the American people, shall withhold the requisite means or in some authoritative manner direct the contrary. I trust this will not be regarded as a menace, but only as the declared purpose of the Union that it *will* constitutionally defend and maintain itself.

In doing this there needs to be no bloodshed or violence, and there shall be none unless it be forced upon the national authority. The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government and to collect the duties and imposts; but beyond what may be necessary for these objects, there will be no invasion, no using of force against or among the people anywhere. Where hostility to the United States in any interior locality shall be so

great and universal as to prevent competent resident citizens from holding the Federal offices, there will be no attempt to force obnoxious strangers among the people for that object. While the strict legal right may exist in the Government to enforce the exercise of these offices, the attempt to do so would be so irritating and so nearly impracticable withal that I deem it better to forego for the time the uses of such offices.

The mails, unless repelled, will continue to be furnished in all parts of the Union. So far as possible the people everywhere shall have that sense of perfect security which is most favorable to calm thought and reflection. The course here indicated will be followed unless current events and experience shall show a modification or change to be proper, and in every case and exigency my best discretion will be exercised, according to circumstances actually existing and with a view and a hope of a peaceful solution of the national troubles and the restoration of fraternal sympathies and affections.

.....

One section of our country believes slavery is *right* and ought to be extended, while the other believes it is *wrong* and ought not to be extended. This is the only substantial dispute. The fugitive-slave clause of the Constitution and the law for the suppression of the foreign slave trade are each as well enforced, perhaps, as any law can ever be in a community where the moral sense of the people imperfectly supports the law itself. The great body of the people abide by the dry legal obligation in both cases, and a few break over in each. This, I think, can not be perfectly cured, and it would be worse in both cases *after* the separation of the sections than before. The foreign slave trade, now imperfectly suppressed, would be ultimately revived without restriction in one section, while fugitive slaves, now only partially surrendered, would not be surrendered at all by the other.

Physically speaking, we can not separate. We can not remove our respective sections from each other nor build an impassable wall between them. A husband and wife may be divorced and go out of the presence and beyond the reach of each other, but the different parts of our country can not do this. They can not but remain face to face, and intercourse, either amicable or hostile, must continue between them. Is it possible, then, to make that intercourse more advantageous or more satisfactory *after* separation than *before*? Can aliens make treaties easier than friends can make laws? Can treaties be more faithfully enforced between aliens than laws can among friends? Suppose you go to war, you can not fight always; and when, after

much loss on both sides and no gain on either, you cease fighting, the identical old questions, as to terms of intercourse, are again upon you.

.....

My countrymen, one and all, think calmly and *well* upon this whole subject. Nothing valuable can be lost by taking time. If there be an object to *hurry* any of you in hot haste to a step which you would never take *deliberately*, that object will be frustrated by taking time; but no good object can be frustrated by it. Such of you as are now dissatisfied still have the old Constitution unimpaired, and, on the sensitive point, the laws of your own framing under it; while the new Administration will have no immediate power, if it would, to change either. If it were admitted that you who are dissatisfied hold the right side in the dispute, there still is no single good reason for precipitate action. Intelligence, patriotism, Christianity, and a firm reliance on Him who has never yet forsaken this favored land are still competent to adjust in the best way all our present difficulty.

In *your* hands, my dissatisfied fellow-countrymen, and not in *mine*, is the momentous issue of civil war. The Government will not assail *you*. You can have no conflict without being yourselves the aggressors. *You* have no oath registered in heaven to destroy the Government, while *I* shall have the most solemn one to "preserve, protect, and defend it."

I am loath to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.

MARCH 4, 1861.

168. THE CONFEDERATE CONSTITUTION

As might have been expected, the Confederate Constitution was based on that of the United States. Departures from it are some of them interesting improvements on it, as a budget system and seats in Congress for cabinet members: some of them are commentaries on its shortcomings in the eyes of the seceding South; examples are impeachment of Federal officers by state legislatures, prohibition of protective duties, strict construction, a single presidential term, thus rendering the Presi-

dent more immune to popular clamor, and protection of slavery in the territories.

Statutes at Large of the Provisional Government of the Confederate States, pp. 11-12, *Richmond, 1864.*

WE, the people of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent federal government, establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our posterity — invoking the favor and guidance of Almighty God — do ordain and establish this Constitution for the Confederate States of America.

ARTICLE I.

SECTION 1.

All legislative powers herein delegated shall be vested in a Congress of the Confederate States, which shall consist of a Senate and House of Representatives.

SECTION 2.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall be citizens of the Confederate States, and have the qualifications requisite for electors of the most numerous branch of the State Legislature; but no person of foreign birth, not a citizen of the Confederate States, shall be allowed to vote for any officer, civil or political, State or Federal.

2. No person shall be a Representative who shall not have attained the age of twenty-five years, and be a citizen of the Confederate States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States, which may be included within this Confederacy, according to their respective numbers, which shall be determined, by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all slaves. . .

.....

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment; except that

any judicial or other Federal officer, resident and acting solely within the limits of any State, may be impeached by a vote of two-thirds of both branches of the Legislature thereof.

.....

SECTION 6.

.....

2. ... But Congress may, by law, grant to the principal officer in each of the Executive Departments a seat upon the floor of either House, with the privilege of discussing any measures appertaining to his department

SECTION 7.

.....

2. Every bill which shall have passed both Houses, shall, before it becomes a law, be presented to the President of the Confederate States; . . The President may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved; and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in case of other bills disapproved by the President.

.....

SECTION 8.

The Congress shall have power —

1. To lay and collect taxes, duties, imposts, and excises, for revenue necessary to pay the debts, provide for the common defence, and carry on the government of the Confederate States; but no bounties shall be granted from the treasury; nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry; and all duties, imposts, and excises shall be uniform throughout the Confederate States:

.....

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; but neither this, nor any other clause contained in the constitution, shall ever be construed to delegate the power to Congress to appropriate money for any internal improvement intended to facilitate commerce; except for the purpose

of furnishing lights, beacons, and buoys, and other aids to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation, in all which cases, such duties shall be laid on the navigation facilitated thereby, as may be necessary to pay the costs and expenses thereof:

.....

7. To establish post-offices and post-routes; but the expenses of the Post-office Department, after the first day of March in the year of our Lord eighteen hundred and sixty-three, shall be paid out of its own revenues:

.....

SECTION 9.

1. The importation of negroes of the African race, from any foreign country other than the slaveholding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same.

2. Congress shall also have power to prohibit the introduction of slaves from any State not a member of, or Territory not belonging to, this Confederacy.

.....

4. No bill of attainder, *ex post facto* law, or law denying or impairing the right of property in negro slaves shall be passed.

.....

6. No tax or duty shall be laid on articles exported from any State, except by a vote of two-thirds of both Houses.

.....

9. Congress shall appropriate no money from the treasury except by a vote of two-thirds of both Houses, taken by yeas and nays, unless it be asked and estimated for by some one of the heads of departments, and submitted to Congress by the President; or for the purpose of paying its own expenses and contingencies; or for the payment of claims against the Confederate States, the justice of which shall have been judicially declared by a tribunal for the investigation of claims against the government, which it is hereby made the duty of Congress to establish.

.....

ARTICLE II.

SECTION I.

1. The executive power shall be vested in a President of the Confederate States of America. He and the Vice President shall hold their offices for the term of six years; but the President shall not be re-eligible. . .

.....

SECTION 2.

.....

3. The principal officer in each of the executive departments, and all persons connected with the diplomatic service, may be removed from office at the pleasure of the President. All other civil officers of the executive departments may be removed at any time by the President, or other appointing power, when their services are unnecessary, or for dishonesty, incapacity, inefficiency, misconduct, or neglect of duty; and when so removed, the removal shall be reported to the Senate, together with the reasons therefor.

.....

ARTICLE IV.

.....

SECTION 2.

1. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States; and shall have the right of transit and sojourn in any State of this Confederacy, with their slaves and other property; and the right of property in said slaves shall not be thereby impaired.

.....

3. No slave or other person held to service or labor in any State or Territory of the Confederate States, under the laws thereof, escaping or lawfully carried into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor: but shall be delivered up on claim of the party to whom such slave belongs, or to whom such service or labor may be due.

SECTION 3.

1. Other States may be admitted into this Confederacy by a vote of two-thirds of the whole House of Representatives and two-thirds of the Senate, the Senate voting by States; ..

.....

3. The Confederate States may acquire new territory; and Congress shall have power to legislate and provide governments for the inhabitants of all territory belonging to the Confederate States, lying without the limits of the several States; and may permit them, at such times, and in such manner as it may by law provide, to form States to be admitted into the Confederacy. In all such territory, the institution of negro slavery, as it now exists in the Confederate States, shall be recognized and protected by Congress and by the territorial government: and the inhabitants of the several Confederate States and Territories shall have the right to take to such territory any slaves lawfully held by them in any of the States or Territories of the Confederate States.

.....

ARTICLE V.

SECTION 1.

1. Upon the demand of any three States, legally assembled in their several conventions, the Congress shall summon a convention of all the States, to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said convention — voting by States — and the same be ratified by the legislatures of two-thirds of the several States, or by conventions in two-thirds thereof — as the one or the other mode of ratification may be proposed by the general convention — they shall thenceforward form a part of this Constitution. But no State shall, without its consent, be deprived of its equal representation in the Senate.

.....

ARTICLE VII.

1. The ratification of the conventions of five States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

.....

Adopted unanimously by the Congress of the Confederate States of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, sitting in Convention at the capitol, in the city of Montgomery, Alabama, on the Eleventh day of March, in the year Eighteen Hundred and Sixty-One.

HOWELL COBB,
President of the Congress.

169. PRESIDENT LINCOLN'S CALL TO ARMS

Skillfully provoked by Lincoln, the Confederates were goaded into beginning hostilities by firing on Fort Sumter, April 12, 1861. April 15, Lincoln issued the following requisition on the state authorities for militia.

Statutes at Large of the United States, Vol. 12, App. 3, p. 1 of session 1, April 15, 1861.

WHEREAS the laws of the United States have been, for some time past, and now are opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by law:

Now, therefore, I, ABRAHAM LINCOLN, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed.

The details for this object will be immediately communicated to the State authorities through the War Department.

I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular government; and to redress wrongs already long enough endured.

I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event, the utmost care will be observed, consistently with the object aforesaid, to avoid any devastation, any destruction of, or interference with, property, or any disturbance of peaceful citizens in any part of the country.

And I hereby command the persons composing the combinations aforesaid to disperse, and retire peaceably to their respective abodes within twenty days from this date.

Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby, in virtue of the power in me vested by the Constitution, convene both Houses of Congress. Senators and Representatives are therefore summoned to assemble at their respective chambers, at twelve o'clock, noon, on Thursday, the fourth day of July next, then and there to consider and determine such measures as, in their wisdom, the public safety and interest may seem to demand.

In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed.

Done at the City of Washington, this fifteenth day of April, in [L.S.] the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State*.

170. THE CONFEDERACY'S CALL TO ARMS

The following Act of the Confederate Congress was passed May 6, 1861.

Richardson, Messages and Papers of the Confederacy, Vol. 1, pp. 104-110, Nashville, 1906.

AN ACT

RECOGNIZING THE EXISTENCE OF WAR BETWEEN THE UNITED STATES AND THE CONFEDERATE STATES, ..

WHEREAS, the earnest efforts made by this Government to establish friendly relations between the Government of the United States and the Confederate States, and to settle all questions of disagreement between the two Governments upon principles of right, justice, equity, and good faith, have proved unavailing by reason of the refusal of the Government of the United States to hold any intercourse with the commissioners appointed by this Government for the purposes aforesaid, or to listen to any proposal they had to make for the peaceful solution of all causes of difficulty between the two Governments; and

Whereas, the President of the United States of America has issued his proclamation making requisition upon the States of the American Union for 75,000 men for the purpose, as therein indicated, of capturing forts and other strongholds within the jurisdiction of, and belonging to, the Confederate States of America, and has detailed naval armaments upon the coasts of the Confederate States of America, and raised, organized, and equipped a large military force to execute the purpose aforesaid, and has issued his other proclamation announcing his purpose to set on foot a blockade of the ports of the Confederate States; and

Whereas, the State of Virginia has seceded from the Federal Union and entered into a convention of alliance offensive and defensive with the Confederate States, and has adopted the Provisional Constitution of the said States; and the States of Maryland, North Carolina, Tennessee, Kentucky, Arkansas, and Missouri have refused, and it is believed that the State of Delaware and the inhabitants of the Territories of Arizona and New Mexico, and the Indian Territory south of Kansas, will refuse to cooperate with the Government of the United States in these acts of hostility and wanton aggression, which are plainly intended to overawe, oppress, and finally subjugate the people of the Confederate States; and

Whereas, by the acts and means aforesaid, war exists between the Confederate States and the Government of the United States and the States and Territories thereof, except the States of Maryland, North Carolina, Tennessee, Kentucky, Arkansas, Missouri, and Delaware, and the Territories of Arizona and New Mexico, and the Indian Territory south of Kansas: Therefore,

Section I. *The Congress of the Confederate States of America do enact*, That the President of the Confederate States is hereby authorized to use the whole land and naval force of the Confederate States to meet the war thus commenced, and to issue to private armed vessels commissions of letters of marque and general reprisal in such form as he shall think proper, under the seal of the Confederate States, against the vessels, goods, and effects of the Government of the United States, and of the citizens or inhabitants of the States and Territories thereof, except the States and Territories hereinbefore named:..

.....

HOWELL COBB,
President of the Congress.

Approved May 6, 1861.

JEFF'N DAVIS

171. NEGROES AS CONTRABAND

The avowed policy of waging the war for the Union and not against slavery raised the problem as to whether fugitive slaves coming to the Federal camps should be returned to their masters. Many officers with Democratic antecedents were careful to do so. General B. F. Butler, a Massachusetts lawyer and politician, met the issue as described in the following incident occurring near Fortress Monroe in Virginia in May, 1861. Thenceforth "contraband" was a slang term for negro.

B. F. Butler, Butler's Book, pp. 256-258, Boston, 1892.

ON the day after my arrival at the fort, May 23, three negroes were reported coming in a boat from Sewall's Point, where the enemy was building a battery. Thinking that some information as to that work might be got from them, I had them before me. I learned that they were employed on the battery at the Point, which as yet was a trifling affair. There were only two guns there, though the work was laid out to be much larger and to be heavily mounted with guns captured from the navy-yard. The negroes said they belonged to Colonel Mallory, who commanded the Virginia troops around Hampton, and that he was now making preparation to take all his negroes to Florida soon, and that not wanting to go away from home they had escaped to the fort. I directed that they should be fed and set at work.

On the next day I was notified by an officer in charge of the picket line next Hampton that an officer bearing a flag of truce desired to be admitted to the fort to see me. As I did not wish to allow officers of the enemy to come inside the fort just then and see us piling up sand bags to protect the weak points there, I directed the bearer of the flag to be informed that I would be at the picket line in the course of an hour. Accompanied by two gentlemen of my staff, Major Fay and Captain Haggerty, neither now living, I rode out to the picket line and met the flag of truce there. It was under charge of Major Carey, who introduced himself, at the same time pleasantly calling to mind that we last met at the Charleston convention. . .

.....

"I am informed," said Major Carey, "that three negroes belonging to Colonel Mallory have escaped within your lines. I am Colonel Mallory's agent and have charge of his property. What do you mean to do with those negroes?"

"I intend to hold them," said I.

"Do you mean, then, to set aside your constitutional obligation to return them?"

"I mean to take Virginia at her word, as declared in the ordinance of secession passed yesterday. I am under no constitutional obligations to a foreign country, which Virginia now claims to be."

"But you say we cannot secede," he answered, "and so you cannot consistently detain the negroes."

"But you say you have seceded, so you cannot consistently claim them. I shall hold these negroes as contraband of war, since they are engaged in the construction of your battery and are claimed as your property. The question is simply whether they shall be used for or against the Government of the United States. Yet, though I greatly need the labor which has providentially come to my hands, if Colonel Mallory will come into the fort and take the oath of allegiance to the United States, he shall have his negroes, and I will endeavor to hire them from him."

"Colonel Mallory is absent," was Major Carey's answer.

We courteously parted. On the way back, the correctness of my law was discussed by Major Haggerty, who was, for a young man, a very good lawyer. He said that he doubted somewhat upon the law, and asked me if I knew of that proposition having been laid down in any treatise on international law.

"Not the precise proposition," said I; "but the precise principle is familiar law. Property of whatever nature, used or capable of being used for warlike purposes, and especially when being so used, may be captured and held either on sea or on shore as property contraband of war. Whether there may be a property in human beings is a question upon which some of us might doubt, but the rebels cannot take the negative. At any rate, Haggerty, it is a good enough reason to stop the rebels' mouths with, especially as I should have held these negroes anyway."

172. CAUSES AND PURPOSES OF THE WAR

At the outset, the support of Democrats and old Whigs in the Northern and border states could only be assured by emphasizing the fact that the war was waged to save the Union and not to extirpate slavery. The following resolution, framed by John J. Crittenden of Kentucky, passed both Houses by July 25.

House Journal, 37 Congress, 1 session, 1861, p. 123.

.....

MR. CRITTENDEN submitted the following resolution, viz.:

Resolved by the House of Representatives of the Congress of the

United States, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional government, and in arms around the capital; that in this national emergency, Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the *supremacy* of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease.

.....

The question then recurring on the demand for the previous question, it was seconded and the main question ordered to be put.

A division of the question being demanded by Mr. Burnett,

The question was first put on agreeing to the first branch of the resolution, ..

.....

And it was decided in the affirmative, { Yeas 121
Nays 2

.....

The *second* branch of the resolution having been read, ..

.....

The question was put, Will the House agree thereto?

And it was decided in the affirmative, { Yeas 117
Nays 2

.....

So the *second* branch of the said resolution was agreed to.

173. THE FIRST LEGAL TENDER ACT

The sudden crisis in the task of financing the Civil War on February 25, 1862, led to the desperate device of authorizing the issue of \$150,000,000 in legal tender notes without any specific provision for their redemption. Subsequent issues were authorized July 11, January 17, 1863, and March 3, 1863. As the "greenbacks" they were an

important part of the monetary program in the days following the Civil War. Some \$346,000,000 of them are still a part of our currency.

Statutes at Large of the United States, Vol. 12, Part 2, Public Laws, pp. 345-348.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to issue, on the credit of the United States, one hundred and fifty millions of dollars of United States notes, not bearing interest, payable to bearer, at the Treasury of the United States, and of such denominations as he may deem expedient, not less than five dollars each:.. such notes herein authorized shall be receivable in payment of all taxes, .. debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid. And any holders of said United States notes depositing any sum not less than fifty dollars, or some multiple of fifty dollars, with the Treasurer of the United States, .. shall receive in exchange therefor, .. an equal amount of bonds of the United States, coupon or registered, .. bearing interest at the rate of six per centum per annum, payable semi-annually, and redeemable at the pleasure of the United States after five years, and payable twenty years from the date thereof. And such United States notes shall be received the same as coin, at their par value, in payment for any loans that may be hereafter sold or negotiated by the Secretary of the Treasury, and may be re-issued from time to time as the exigencies of the public interests shall require.

.....

SEC. 5. *And be it further enacted*, That all duties on imported goods shall be paid in coin, or in notes payable on demand heretofore authorized to be issued and by law receivable in payment of public dues, and the coin so paid shall be set apart as a special fund, and shall be applied as follows:

First. To the payment in coin of the interest on the bonds and notes of the United States.

Second. To the purchase or payment of one per centum of the entire debt of the United States, to be made within each fiscal year after the first day of July, eighteen hundred and sixty-two, which is to be set apart as a sinking fund, and the interest of which shall in like manner

be applied to the purchase or payment of the public debt as the Secretary of the Treasury shall from time to time direct.

Third. The residue thereof to be paid into the Treasury of the United States.

.....

APPROVED, February 25, 1862.

174. THE HOMESTEAD ACT

Passed May 20, 1862. See also No. 131.

Statutes at Large of the United States, *Vol. 12, pp. 392-393.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, .. and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall, from and after the first January, eighteen hundred and sixty-three, be entitled to enter one-quarter section or a less quantity of unappropriated public lands, .. to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed:..

SEC. 2. *And be it further enacted,* That the person applying for the benefit of this act shall, .. make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the army or navy of the United States, and that he has never borne arms against the Government of the United States or given aid and comfort to its enemies, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified: *Provided, however,* That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry; .. shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately

succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided for by law:..

.....

SEC. 4. *And be it further enacted*, That no lands acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

SEC. 5. *And be it further enacted*, That if, at any time after the filing of the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said land for more than six months at any time, then and in that event the land so entered shall revert to the government.

SEC. 6. *And be it further enacted*, That no individual shall be permitted to acquire title to more than one quarter section under the provisions of this act; .. That no person who has served, or may hereafter serve, for a period of not less than fourteen days in the army or navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this act on account of not having attained the age of twenty-one years.

.....

APPROVED, May 20, 1862.

175. THE SECOND CONFISCATION ACT

A first Confiscation Act passed in 1861 applied only to property actually used for insurrectionary purposes. The second act, approved July 17, 1862, was marked by the increasing bitterness engendered by the struggle. It confiscated the property of all persons active for the Confederacy; it made the freeing of slaves a specific penalty. Lincoln at first planned to veto it, on grounds which Congress obviated by its explanatory resolution, at the end of the act.

Statutes at Large of the United States, Vol. 12, pp. 589-627.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person who shall hereafter commit the crime of treason against the United States, and shall be adjudged guilty thereof, shall suffer death, and all his slaves, if any, shall be declared and made free; or, at the discretion of the court, he shall be imprisoned for not less than five years and fined not less than ten thousand dollars, and all his slaves, if any, shall be declared and made free; ..

SEC. 2. *And be it further enacted*, That if any person shall hereafter incite, .. assist, or engage in any rebellion ... against the authority of the United States, .. and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding ten thousand dollars, and by the liberation of all his slaves, if any he have; or by both of said punishments, at the discretion of the court.

SEC. 3. *And be it further enacted*, That every person guilty of either of the offences described in this act shall be forever incapable and disqualified to hold any office under the United States.

.....

SEC. 5. *And be it further enacted*, That, to insure the speedy termination of the present rebellion, it shall be the duty of the President of the United States to cause the seizure of all the estate and property, money, .. and effects of the persons hereinafter named in this section, and to apply ... the proceeds thereof for the support of the army of the United States, that is to say:

First. Of any person hereafter acting as an officer of the army or navy of the rebels in arms against the government of the United States.

Secondly. Of any person hereafter acting as President, Vice-President, member of Congress, judge of any court, cabinet officer, foreign minister, commissioner or consul of the so-called confederate states of America.

Thirdly. Of any person acting as governor of a state, member of a convention or legislature, or judge of any court of any of the so-called confederate states of America.

Fourthly. Of any person who, having held an office of honor, trust, or profit in the United States, shall hereafter hold an office in the so-called confederate states of America.

Fifthly. Of any person hereafter holding any office or agency under the government of the so-called confederate states of America, or under any of the several states of the said confederacy, or the laws thereof, whether such office or agency be national, state, or municipal

in its name or character: *Provided*, That the persons, thirdly, fourthly, and fifthly above described shall have accepted their appointment or election since the date of the pretended ordinance of secession of the state, or shall have taken an oath of allegiance to, or to support the constitution of the so-called confederate states.

Sixthly. Of any person who, owning property in any loyal State or Territory of the United States, or in the District of Columbia, shall hereafter assist . . . such rebellion; and all sales, . . . of any such property shall be null and void; and it shall be a sufficient bar to any suit brought by such person for the possession or the use of such property, or any of it, to allege and prove that he is one of the persons described in this section.

SEC. 6. *And be it further enacted*, That if any person within any State or Territory of the United States, other than those named as aforesaid, . . . being engaged in armed rebellion against the government of the United States, . . . shall not, within sixty days after public warning and proclamation . . . cease to aid, . . . such rebellion, . . . all the estate and property, . . . of such person shall be liable to seizure as aforesaid, and it shall be the duty of the President to seize and use them as aforesaid. . . . And all sales, . . . of any such property after the expiration of the said sixty days from the date of such warning and proclamation shall be null and void; . . .

.....

SEC. 9. *And be it further enacted*, That all slaves of persons who shall hereafter be engaged in rebellion against the government of the United States, . . . escaping from such persons and taking refuge within the lines of the army; and all slaves captured from such persons . . . and all slaves of such persons found *on* [or] being within any place occupied by rebel forces and afterwards occupied by the forces of the United States, shall be deemed captives of war, and shall be forever free of their servitude, and not again held as slaves.

SEC. 10. *And be it further enacted*, That no slave escaping into any State, Territory, or the District of Columbia, from any other State, shall be delivered up, or in any way impeded or hindered of his liberty, except for crime, or some offence against the laws, unless the person claiming said fugitive shall first make oath that the person to whom the labor or service of such fugitive is alleged to be due is his lawful owner, and has not borne arms against the United States in the present rebellion, nor in any way given aid and comfort thereto; and no person engaged in the military or naval service of the United States shall, under any pretence whatever, assume to decide on the

validity of the claim of any person to the service or labor of any other person, or surrender up any such person to the claimant, on pain of being dismissed from the service.

SEC. 11. *And be it further enacted*, That the President of the United States is authorized to employ as many persons of African descent as he may deem necessary and proper for the suppression of this rebellion, and for this purpose he may organize and use them in such manner as he may judge best for the public welfare.

SEC. 12. *And be it further enacted*, That the President of the United States is hereby authorized to make provision for the transportation, colonization, and settlement, in some tropical country beyond the limits of the United States, of such persons of the African race, made free by the provisions of this act, as may be willing to emigrate, having first obtained the consent of the government of said country to their protection and settlement within the same, with all the rights and privileges of freemen.

SEC. 13. *And be it further enacted*, That the President is hereby authorized, at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof, pardon and amnesty, with such exceptions and at such time and on such conditions as he may deem expedient for the public welfare.

SEC. 14. *And be it further enacted*, That the courts of the United States shall have full power to institute proceedings, make orders and decrees, issue process, and do all other things necessary to carry this act into effect.

APPROVED, July 17, 1862.

.....

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the third clause of the fifth section of "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes," shall be so construed as not to apply to any act or acts done prior to the passage thereof; nor to include any member of a State legislature, or judge of any State court, who has not in accepting or entering upon his office, taken an oath to support the constitution of the so-called "Confederate States of America"; nor shall any punishment or proceedings under said act be so construed as to work a forfeiture of the real estate of the offender beyond his natural life.

APPROVED, July 17, 1862.

176. THE EMANCIPATION PROCLAMATION

Issued September 22, 1862. The definitive proclamation issued January 1, 1863, freeing the slaves in all territory not under the obedience of the Federal government, or controlled by its armies. It definitely turned the war into a crusade against slavery.

Richardson, Messages and Papers of the Presidents, Vol. 6, pp. 96-98.

I, Abraham Lincoln, President of the United States of America and Commander in Chief of the Army and Navy thereof, do hereby proclaim and declare that hereafter, as heretofore, the war will be prosecuted for the object of practically restoring the constitutional relation between the United States and each of the States and the people thereof in which States that relation is or may be suspended or disturbed.

That it is my purpose, upon the next meeting of Congress, to again recommend the adoption of a practical measure tendering pecuniary aid to the free acceptance or rejection of all slave States, so called, the people whereof may not then be in rebellion against the United States, and which States may then have voluntarily adopted, or thereafter may voluntarily adopt, immediate or gradual abolishment of slavery within their respective limits; and that the effort to colonize persons of African descent with their consent upon this continent or elsewhere, with the previously obtained consent of the governments existing there, will be continued.

That on the 1st day of January, A. D. 1863, all persons held as slaves within any State or designated part of a State the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free; and the executive government of the United States, including the military and naval authority thereof, will recognize and maintain the freedom of such persons and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

That the Executive will on the 1st day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State or the people thereof shall on that day be in good faith represented in the Congress of the United States by members chosen thereto at elections wherein a majority of the qualified voters of such State shall have participated shall, in the absence of strong countervailing testimony, be deemed conclusive evi-

dence that such State and the people thereof are not then in rebellion against the United States.

.....

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done at the City of Washington, this 22d day of September, A. D. 1862, and of the Independence of the United States the eighty-seventh.

By the President: ABRAHAM LINCOLN.
WILLIAM H. SEWARD, *Secretary of State*.

177. THE DRAFT ACT

Approved March 3, 1863. Compare the machinery with that used in the World War No. 252. In the Civil War, volunteering and re-enlistment stimulated by the draft and by bounties supplied the most and the best troops. The purpose of the clause allowing a money commutation was to make possible offering bounties to secure the re-enlistment of veterans whose enlistments had expired.

Statutes at Large of the United States, Vol. 12, Part 2, Public Laws, pp. 731-737.

WHEREAS there now exist in the United State an insurrection and rebellion against the authority thereof, and it is, under the Constitution of the United States, the duty of the government to suppress insurrection and rebellion, to guarantee to each State a republican form of government, and to preserve the public tranquillity; and whereas, for these high purposes, a military force is indispensable, to raise and support which all persons ought willingly to contribute; and whereas no service can be more praiseworthy and honorable than that which is rendered for the maintenance of the Constitution and Union, and the consequent preservation of free government: Therefore —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all able-bodied male citizens of the United States, and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof, between the ages of twenty and forty-five years, except as hereinafter excepted, are hereby declared to constitute the national forces, and shall be liable to perform military

duty in the service of the United States when called out by the President for that purpose.

SEC. 2. *And be it further enacted*, That the following persons be, and they are hereby, excepted and exempt from the provisions of this act, and shall not be liable to military duty under the same, to wit: Such as are rejected as physically or mentally unfit for the service; also, First the Vice-President of the United States, the judges of the various courts of the United States, the heads of the various executive departments of the government, and the governors of the several States. Second, the only son liable to military duty of a widow dependent upon his labor for support. Third, the only son of aged or infirm parent or parents dependent upon his labor for support. Fourth, where there are two or more sons of aged or infirm parents subject to draft, the father, or, if he be dead, the mother, may elect which son shall be exempt. Fifth, the only brother of children not twelve years old, having neither father nor mother dependent upon his labor for support. Sixth, the father of motherless children under twelve years of age dependent upon his labor for support. Seventh, where there are a father and sons in the same family and household, and two of them are in the military service of the United States as non-commissioned officers, musicians, or privates, the residue of such family and household, not exceeding two, shall be exempt. And no persons but such as are herein excepted shall be exempt: *Provided, however*, That no person who has been convicted of any felony shall be enrolled or permitted to serve in said forces.

SEC. 3. *And be it further enacted*, That the national forces of the United States not now in the military service, enrolled under this act, shall be divided into two classes: the first of which shall comprise all persons subject to do military duty between the ages of twenty and thirty-five years, and all unmarried persons subject to do military duty above the age of thirty-five and under the age of forty-five; the second class shall comprise all other persons subject to do military duty, and they shall not, in any district, be called into the service of the United States until those of the first class shall have been called.

SEC. 4. *And be it further enacted*, That, for greater convenience in enrolling, calling out, and organizing the national forces, and for the arrest of deserters and spies of the enemy, the United States shall be divided into districts, of which the District of Columbia shall constitute one, each territory of the United States shall constitute one or more, as the President shall direct, and each congressional district of the respective states, as fixed by a law of the state next preceding the enrolment, shall constitute one:..

SEC. 5. *And be it further enacted*, That for each of said districts there shall be appointed by the President a provost-marshal, . . who shall be under the direction and subject to the orders of a provost-marshal-general, . . whose office shall be at the seat of government, forming a separate bureau of the War Department, and whose rank, . . pay, and emoluments shall be those of a colonel of cavalry.

.....

SEC. 8. *And be it further enacted*, That in each of said districts there shall be a board of enrolment, to be composed of the provost-marshal, as president, and two other persons, to be appointed by the President of the United States, one of whom shall be a licensed and practising physician and surgeon.

SEC. 9. *And be it further enacted*, That it shall be the duty of the said board to divide the district into sub-districts of convenient size, . . not exceeding two, . . and to appoint . . an enrolling officer for each sub-district, . . and he shall immediately proceed to enrol all persons subject to military duty, noting their respective places of residence, ages on the first day of July following, and their occupation, and shall, on or before the first day of April, report the same to the board of enrolment, to be consolidated into one list, . .

.....

SEC. 11. *And be it further enacted*, That all persons thus enrolled shall be subject, for two years . . to be called into the military service of the United States, and to continue in service during the present rebellion, not, however, exceeding the term of three years; and when called into service shall be placed on the same footing, in all respects, as volunteers for three years, or during the war, including advance pay and bounty as now provided by law.

SEC. 12. *And be it further enacted*, That whenever it may be necessary to call out the national forces for military service, the President is hereby authorized to assign to each district the number of men to be furnished by said districts; and thereupon the enrolling board shall, under the direction of the President, make a draft of the required number, and fifty per cent. in addition, . . and the persons so drawn shall be notified of the same within ten days thereafter, by a written or printed notice, . . requiring them to appear at a designated rendezvous to report for duty. In assigning to the districts the number of men to be furnished therefrom, the President shall take into consideration the number of volunteers and militia furnished by and from the several states in which said districts are situated, . . and shall so make said

assignment as to equalize the numbers among the districts of the several states, ..

SEC. 13. *And be it further enacted*, That any person drafted and notified to appear as aforesaid, may, on or before the day fixed for his appearance, furnish an acceptable substitute to take his place in the draft; or he may pay to such person as the Secretary of War may authorize to receive it, such sum, not exceeding three hundred dollars, as the Secretary may determine, for the procuration of such substitute; .. and thereupon such person so furnishing the substitute, or paying the money, shall be discharged from further liability under that draft. And any person failing to report after due service of notice, as herein prescribed, without furnishing a substitute, or paying the required sum therefor, shall be deemed a deserter, ..

.....

SEC. 16. *And be it further enacted*, That as soon as the required number of able-bodied men liable to do military duty shall be obtained from the list of those drafted, the remainder shall be discharged; ..

SEC. 17. *And be it further enacted*, That any person enrolled and drafted according to the provisions of this act who shall furnish an acceptable substitute, shall thereupon receive from the board of enrolment a certificate of discharge from such draft, which shall exempt him from military duty during the time for which he was drafted; and such substitute shall be entitled to the same pay and allowances provided by law as if he had been originally drafted into the service of the United States.

178. THE GETTYSBURG ADDRESS

November 19, 1863.

Writings of Abraham Lincoln, *Federal edition*, Vol. 7, p. 20.

FOUR score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.

Now we are engaged in a great civil war, testing whether that nation or any nation so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, as a final resting place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this.

But, in a larger sense, we can not dedicate — we can not consecrate — we can not hallow — this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us — that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion — that we here highly resolve that these dead shall not have died in vain — that this nation, under God, shall have a new birth of freedom — and that government of the people, by the people, for the people, shall not perish from the earth.

179. LINCOLN'S AMNESTY PROCLAMATION

By the following proclamation of December 8, 1863, Lincoln announced the reconstruction policy of the executive branch of the government. The controversy as to whether reconstruction was the proper work of the President or of Congress began at this point.

Richardson, Messages and Papers of the Presidents, Vol. 6, pp. 213-215.

By The President Of The United States Of America A Proclamation.

WHEREAS in and by the Constitution of the United States it is provided that the President "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment;" and

Whereas a rebellion now exists whereby the loyal State governments of several States have for a long time been subverted, and many persons have committed and are now guilty of treason against the United States; and

Whereas, with reference to said rebellion and treason, laws have been enacted by Congress declaring forfeitures and confiscation of property and liberation of slaves, all upon terms and conditions therein stated, and also declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to persons who may have participated in the existing rebellion in any State or part thereof

pardon and amnesty, with such exceptions and at such times and on such conditions as he may deem expedient for the public welfare; and

Whereas the Congressional declaration for limited and conditional pardon accords with well-established judicial exposition of the pardoning power; and

Whereas, with reference to said rebellion, the President of the United States has issued several proclamations with provisions in regard to the liberation of slaves; and

Whereas it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States and to reinaugurate loyal State governments within and for their respective States:

Therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known to all persons who have, directly or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath and thenceforward keep and maintain said oath inviolate, and which oath shall be registered for permanent preservation and shall be of the tenor and effect following, to wit:

I, ———, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will in like manner abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress or by decision of the Supreme Court; and that I will in like manner abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court. So help me God.

The persons excepted from the benefits of the foregoing provisions are all who are or shall have been civil or diplomatic officers or agents of the so-called Confederate Government; all who have left judicial stations under the United States to aid the rebellion; all who are or shall have been military or naval officers of said so-called Confederate Government above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States Congress to aid the rebellion; all who resigned commissions in the Army or Navy of the United States and afterwards aided the rebellion; and all who have

engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one-tenth in number of the votes cast in such State at the Presidential election of the year A. D. 1860, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall reestablish a State government which shall be republican and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that "the United States shall guarantee to every State in this Union a republican form of government and shall protect each of them against invasion, and, on application of the legislature, or the executive (when the legislature can not be convened), against domestic violence."

And I do further proclaim, declare, and make known that any provision which may be adopted by such State government in relation to the freed people of such State which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent as a temporary arrangement with their present condition as a laboring, landless, and homeless class, will not be objected to by the National Executive.

And it is suggested as not improper that in constructing a loyal State government in any State the name of the State, the boundary, the subdivisions, the constitution, and the general code of laws as before the rebellion be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions and which may be deemed expedient by those framing the new State government.

To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to State governments, has no reference to States wherein loyal State governments have all the while been maintained. And for the same reason it may be proper to further say that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive. And, still further, that this proclamation is intended to present the people of the States

wherein the national authority has been suspended and loyal State governments have been subverted a mode in and by which the national authority and loyal State governments may be reëstablished within said States or in any of them; and while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

Given under my hand at the city of Washington, the 8th day of December, A. D. 1863, and of the Independence of the United States of America the eighty-eighth.

By the President:

ABRAHAM LINCOLN.

William H. Seward, Secretary of State.

180. THE NATIONAL BANK ACT

At the outbreak of the Civil War the circulating medium in the United States consisted of metallic money coined by the Federal Government and bank notes issued by the various state banks. The bank note currency was a quite uncertain affair. Some states had adequately controlled banking systems — some did not. State bank notes, therefore, circulated widely at all degrees of discount and were counterfeited with impunity. The Legal Tender Acts of the Civil War period added to this currency several hundred millions of unsecured legal tender paper issued by the Government.

Partly as a means of floating Federal bond issues, Congress, February 25, 1863, passed an act providing for a national bank system. The act proved defective and a second act was passed June 3, 1864, under which the system was definitely established. Its primary purpose was the establishment of rules under which private persons might take out charters of incorporation to form national banks. These banks, under strict Federal supervision, were required to issue bank notes secured by the deposit of Federal bonds with the United States Treasury. The system proved a valuable one. A prohibitive tax placed on the notes of state banks secured a monopoly of the issue of bank notes to the national banks.

BE it enacted . . . That there shall be established in the treasury department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the

comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate. . . The comptroller and deputy-comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

.....

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five, who shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with the provisions of this act, which the association may see fit to adopt for the regulation of the business of the association and the conduct of its affairs, which said articles shall be signed by the persons uniting to form the association, and a copy of them forwarded to the comptroller of the currency, to be filed and preserved in his office:

.....

SEC. 7. *And be it further enacted*, That no association shall be organized under this act, with a less capital than one hundred thousand dollars, nor in a city whose population exceeds fifty thousand persons, with a less capital than two hundred thousand dollars: *Provided*, That banks with a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants.

.....

SEC. 14. *And be it further enacted*, That at least fifty per centum of the capital stock of every association shall be paid in before it shall be authorized to commence business; and the remainder of the capital stock of such association shall be paid in instalments of at least ten per centum each on the whole amount of the capital as frequently as one instalment at the end of each succeeding month from the time it shall be authorized by the comptroller to commence business. . .

.....

SEC. 16. *And be it further enacted*, That every association, after having complied with the provisions of this act, preliminary to the

commencement of banking business under its provisions, and before it shall be authorized to commence business, shall transfer and deliver to the treasurer of the United States any United States registered bonds bearing interest to an amount not less than thirty thousand dollars nor less than one third of the capital stock paid in, which bonds shall be deposited with the treasurer of the United States and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act; and the Secretary of the Treasury is hereby authorized to receive and cancel any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run; and the deposit of bonds shall be, by every association, increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the treasurer registered United States bonds to the amount of at least one third of its capital stock actually paid in. . .

.....

SEC. 21. *And be it further enacted*, That upon the transfer and delivery of bonds to the treasurer, as provided in the foregoing section, the association making the same shall be entitled to receive from the comptroller of the currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of said bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

SEC. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued under this act shall not exceed three hundred millions of dollars. . .

SEC. 23. *And be it further enacted*, That after any such association shall have caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for duties on imports; and also for all salaries and other debts and demands owing by the

United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency. And no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

.....

SEC. 26. *And be it further enacted*, That the bonds transferred to and deposited with the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency shall give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which it shall have so transferred to the treasurer; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid. Whenever the market or cash value of any bonds deposited with the treasurer of the United States, as aforesaid, shall be reduced below the amount of the circulation issued for the same, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the treasurer of the United States as long as such depreciation continues. . .

.....

SEC. 31. *And be it further enacted*, That every association in the cities hereinafter named shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its notes in circulation and its deposits; and every other association shall, at all times, have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its notes in circulation, and of its deposits. And whenever the lawful money of any association in any of the cities hereinafter named shall be below the amount of twenty-five per centum of its circulation and deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits

and its lawful money of the United States shall be restored: *Provided*, That three fifths of said fifteen per centum may consist of balances due to an association available for the redemption of its circulating notes from associations approved by the comptroller of the currency, organized under this act, in the cities of Saint Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington City: *Provided, also*, That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificate, and shall be considered to be a part of the lawful money which such association is required to have under the foregoing provisions of this section: *Provided*, That the cities of Charleston and Richmond may be added to the list of cities in the national associations of which other associations may keep three fifths of their lawful money, whenever, in the opinion of the comptroller of the currency, the condition of the southern states will warrant it. And it shall be competent for the comptroller of the currency to notify any association, whose lawful money reserve as aforesaid shall be below the amount to be kept on hand as aforesaid, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

SEC. 32. *And be it further enacted*, That each association organized in any of the cities named in the foregoing section shall select, subject to the approval of the comptroller of the currency, an association in the city of New York, at which it will redeem its circulating notes at par. And each of such associations may keep one half of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select, subject to the approval of the comptroller of the currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par... [*Provided*]... That every association formed or existing under the provisions of this act shall take and receive at par, for any debt or liability to said association, any and all notes or bills issued by any association existing under and by virtue of this act.

.....

SEC. 44. *And be it further enacted*, That any bank incorporated by special law, or any banking institution organized under a general law of any state, may, by authority of this act, become a national association under its provisions, by the name prescribed in its organization certificate. . . . *Provided, however*, That no such association shall have a less capital than the amount prescribed for banking associations under this act.

SEC. 45. *And be it further enacted*, That all associations under this act, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the government; and they shall perform all such reasonable duties, as depositaries of public moneys and financial agents of the government, as may be required of them. And the Secretary of the Treasury shall require of the associations thus designated satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the government: *Provided*, That every association which shall be selected and designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid in to the government for internal revenue, or for loans or stocks.

.....

181. THE WADE-DAVIS BILL

The bill represented the reconstruction program of the majority in Congress, much severer than that advocated by Lincoln. The bill is here summarized from the Congressional Globe of July 1, 1864. Lincoln subjected the bill to a pocket veto. For his objections see No. 182.

Congressional Globe, Part 4 and Appendix 1, 38 Congress, 1 session, 1863-64, pp. 3448-3449.

RECONSTRUCTION BILL

MR. WADE. Let the bill which I have called up be now read.

The PRESIDING OFFICER. The bill (H. R. No. 244) to guaranty to certain States whose governments have been usurped or

overthrown, a republican form of government, is now before the Senate as in Committee of the Whole, and will be read.

The bill was read.

The first section provides that in the States declared in rebellion against the United States, the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, . . who shall be charged with the civil administration of such State until a State government therein shall be recognized as hereinafter provided.

The second section declares that so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States . . . to enroll all white male citizens of the United States resident in the State in their respective counties, and to request each one to take the oath to support the Constitution of the United States, . . and if the persons taking that oath amount to a majority of the persons enrolled in the State, he is by proclamation to invite the loyal people of the State to elect delegates to a convention charged to declare the will of the people of the State relative to the reëstablishment of a State government, subject to and in conformity with the Constitution of the United States.

.....

The fourth section provides that the delegates shall be elected by the loyal white male citizens of the United States of the age of twenty-one years, and resident at the time in the county, parish, or district in which they shall offer to vote, and enrolled as before provided, or absent in the military service of the United States, . . but no person who has held or exercised any office, civil or military, State or confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, is to vote or be eligible to be elected as delegate at such election.

.....

The seventh section provides that the convention shall declare, on behalf of the people of the State, their submission to the Constitution and laws of the United States, and shall adopt the following provisions, . . and incorporate them in the constitution of the State, namely: First. No person who has held or exercised any office, civil or military, except offices merely ministerial and military offices below the grade of colonel . . . shall vote for or be a member of the Legislature, or Governor. Second. Involuntary servitude is forever prohibited, and

the freedom of all persons is guarantied in said State. Third. No debt, State or confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the State.

.....

By section twelve, all persons held to involuntary servitude or labor in the States referred to are emancipated and discharged therefrom, and they and their posterity are declared to be forever free. And if any such persons or their posterity shall be restrained of liberty, under pretense of any claim to such service or labor, the courts of the United States shall, on *habeas corpus*, discharge them.

182. LINCOLN'S OBJECTIONS TO THE WADE-DAVIS BILL

July 8, 1864.

Writings of Abraham Lincoln, *Federal edition*, vol. 7, pp. 168-170.

BY THE PRESIDENT OF THE UNITED STATES:

A Proclamation.

WHEREAS at the late session Congress passed a bill "to guarantee to certain States whose governments have been usurped or overthrown a republican form of government," a copy of which is hereunto annexed; and

Whereas, the said bill was presented to the President of the United States for his approval less than one hour before the *sine die* adjournment of said session, and was not signed by him; and

Whereas the said bill contains, among other things, a plan for restoring the States in rebellion to their proper practical relation in the Union, which plan expresses the sense of Congress upon that subject, and which plan it is now thought fit to lay before the people for their consideration:

Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known that while I am (as I was in December last, when, by proclamation, I propounded a plan for restoration) unprepared by a formal approval of this bill to be inflexibly committed to any single plan of restoration, and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be

set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted, nevertheless I am fully satisfied with the system for restoration contained in the bill as one very proper plan for the loyal people of any State choosing to adopt it, and that I am and at all times shall be prepared to give the Executive aid and assistance to any such people so soon as the military resistance to the United States shall have been suppressed in any such State and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, in which cases military governors will be appointed with directions to proceed according to the bill.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL] Done at the city of Washington, this 8th day of July, A.D. 1864, and of the independence of the United States the eighty-ninth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State*.

183. THE DEMOCRATIC PLATFORM OF 1864

The platform adopted at Cincinnati August 29, 1864, condemned the Democratic party to campaign on the issue that the war was a failure. The Federal victories in the fall of 1864, therefore, insured its defeat.

Democratic Speaker's Handbook, p. 52, Cincinnati, 1868.

RESOLVED, That in the future, as in the past, we will adhere with unswerving fidelity to the Union under the Constitution as the only solid foundation of our strength, security, and happiness as a people, and as a frame-work of government equally conducive to the welfare and prosperity of all the States, both Northern and Southern.

Resolved, That this Convention does explicitly declare, as the sense of the American people, that after four years of failure to restore the Union by the experiment of war, during which, under the pretense of a military necessity, or war power higher than the Constitution, the Constitution itself has been disregarded in every part, and public liberty and private right alike trodden down and the material prosperity of the country essentially imperiled — justice, humanity, liberty, and

the public welfare demand that immediate efforts be made for a cessation of hostilities, with a view to an ultimate convention of the States, or other peaceable means, to the end that at the earliest practicable moment peace may be restored on the basis of the Federal Union of the States.

Resolved, That the direct interference of the military authorities of the United States in the recent elections held in Kentucky, Maryland, Missouri, and Delaware, was a shameful violation of the Constitution; and a repetition of such acts in the approaching election will be held as revolutionary, and resisted with all the means and power under our control.

Resolved, That the aim and object of the Democratic party is to preserve the Federal Union and the rights of the States unimpaired; and they hereby declare that they consider that the administrative usurpation of extraordinary and dangerous powers not granted by the Constitution; the subversion of the civil by military law in States not in insurrection; the arbitrary military arrest, imprisonment, trial, and sentence of American citizens in States where civil law exists in full force; the suppression of freedom of speech and of the press; the denial of the right of asylum; the open and avowed disregard of State rights; the employment of unusual test-oaths, and the interference with and denial of the right of the people to bear arms in their defense, is calculated to prevent a restoration of the Union and the perpetuation of a government deriving its just powers from the consent of the governed.

Resolved, That the shameful disregard of the Administration to its duty in respect to our fellow-citizens who now are, and long have been prisoners of war in a suffering condition, deserves the severest reprobation, on the score alike of public policy and common humanity.

Resolved, That the sympathy of the Democratic party is heartily and earnestly extended to the soldiery of our army and sailors of our navy, who are, and have been in the field and on the sea, under the flag of their country; and in the event of its attaining power, they will receive all the care, protection, and regard that the brave soldiers and sailors of the Republic have so nobly earned.

184. LINCOLN'S SECOND INAUGURAL

Delivered March 4, 1865.

Richardson, Messages and Papers of the Presidents, Vol. 6, pp. 276-277.

FELLOW-COUNTRYMEN: At this second appearing to take the oath of the Presidential office there is less occasion for an extended address than there was at the first. Then a statement somewhat in detail of a course to be pursued seemed fitting and proper. Now, at the expiration of four years, during which public declarations have been constantly called forth on every point and phase of the great contest which still absorbs the attention and engrosses the energies of the nation, little that is new could be presented. The progress of our arms, upon which all else chiefly depends, is as well known to the public as to myself, and it is, I trust, reasonably satisfactory and encouraging to all. With high hope for the future, no prediction in regard to it is ventured.

On the occasion corresponding to this four years ago all thoughts were anxiously directed to an impending civil war. All dreaded it, all sought to avert it. While the inaugural address was being delivered from this place, devoted altogether to *saving* the Union without war, insurgent agents were in the city seeking to *destroy* it without war — seeking to dissolve the Union and divide effects by negotiation. Both parties deprecated war, but one of them would *make* war rather than let the nation survive, and the other would *accept* war rather than let it perish, and the war came.

One-eighth of the whole population were colored slaves, not distributed generally over the Union, but localized in the southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was somehow the cause of the war. To strengthen, perpetuate, and extend this interest was the object for which the insurgents would rend the Union even by war, while the Government claimed no right to do more than to restrict the territorial enlargement of it. Neither party expected for the war the magnitude or the duration which it has already attained. Neither anticipated that the *cause* of the conflict might cease with or even before the conflict itself should cease. Each looked for an easier triumph, and a result less fundamental and astounding; Both read the same Bible and pray to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces, but let us judge not, that we be not judged. The prayers of both could not be answered. That of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offenses; for it must needs be that offenses come, but woe to that man by whom the offense cometh." If we shall suppose that American slavery is one of those offenses

which, in the providence of God, must needs come, but which, having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war as the woe due to those by whom the offense came, shall we discern therein any departure from those divine attributes which the believers in a living God always ascribe to Him? Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue until all the wealth piled by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said "the judgments of the Lord are true and righteous altogether."

With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation's wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.

March 4, 1865.

185. JOHNSON'S AMNESTY PROCLAMATION

Issued May 29, 1865, it announced Johnson's determination to carry out Lincoln's liberal reconstruction policy. Necessarily it embroiled him with the radical majority in Congress.

Richardson, Messages and Papers of the Presidents, Vol. 7, pp. 310-312.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

WHEREAS the President of the United States, on the 8th day of December, A. D. 1863, and on the 26th day of March, A. D. 1864, did, with the object to suppress the existing rebellion, to induce all persons to return to their loyalty, and to restore the authority of the United States, issue proclamations offering amnesty and pardon to certain persons who had, directly or by implication, participated in the said rebellion; and

Whereas many persons who had so engaged in said rebellion have,

since the issuance of said proclamations, failed or neglected to take the benefits offered thereby; and

Whereas many persons who have been justly deprived of all claim to amnesty and pardon thereunder by reason of their participation, directly or by implication, in said rebellion and continued hostility to the Government of the United States since the date of said proclamations now desire to apply for and obtain amnesty and pardon.

To the end, therefore, that the authority of the Government of the United States may be restored. . . I, Andrew Johnson, President of the United States, do . . . grant to all persons who have . . . participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, . . . but upon the condition, nevertheless, that every such person shall take and subscribe the following oath (or affirmation) . . . to wit:

I, ———, do solemnly swear (or affirm), in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder, and that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God.

The following classes of persons are excepted from the benefits of this proclamation:

First. All who are or shall have been pretended civil or diplomatic officers . . . of the pretended Confederate government.

Second. All who left judicial stations under the United States to aid the rebellion.

Third. All who shall have been military or naval officers of said pretended Confederate government above the rank of colonel in the army or lieutenant in the navy.

Fourth. All who left seats in the Congress of the United States to aid the rebellion.

Fifth. All who resigned or tendered resignations of their commissions in the Army or Navy of the United States to evade duty in resisting the rebellion.

Sixth. All who have engaged in any way in treating otherwise than lawfully as prisoners of war persons found in the United States service as officers, soldiers, seamen, or in other capacities.

Seventh. All persons who have been or are absentees from the United States for the purpose of aiding the rebellion.

Eighth. All military and naval officers in the rebel service who were

educated by the Government in the Military Academy...or the United States Naval Academy.

Ninth. All persons who held the pretended offices of governors of States in insurrection against the United States.

Tenth. All persons who left their homes within the jurisdiction and protection of the United States and passed beyond the Federal military lines into the pretended Confederate States for the purpose of aiding the rebellion.

Eleventh. All persons who have been engaged in the destruction of the commerce of the United States upon the high seas and all persons who have made raids into the United States from Canada or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States.

Twelfth. All persons who, at the time when they seek to obtain the benefits hereof by taking the oath herein prescribed, are in...confinement or custody, or under bonds of the...authorities or agents of the United States as prisoners of war, or persons detained for offenses of any kind, either before or after conviction.

Thirteenth. All persons who have voluntarily participated in said rebellion and the estimated value of whose taxable property is over \$20,000.

Fourteenth. All persons who have taken the oath of amnesty as prescribed in the President's proclamation of December 8, A. D. 1863, or an oath of allegiance to the Government of the United States since the date of said proclamation and who have not thenceforward kept and maintained the same inviolate.

Provided, That special application may be made to the President for pardon by any person belonging to the excepted classes, and such clemency will be liberally extended as may be consistent with the facts of the case and the peace and dignity of the United States.

.....

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

[SEAL.] Done at the city of Washington, the 29th day of May, A. D. 1865, and of the Independence of the United States the eighty-ninth.

ANDREW JOHNSON.

By the President:

WILLIAM H. SEWARD,

Secretary of State.

186. THE THIRTEENTH AMENDMENT

First proposed in 1864, it passed the Senate but failed to muster a 2/3 vote in the House of Representatives. It was reconsidered and passed January 31, 1865, 121-24. Ratification was proclaimed December 18, 1865.

Statutes at Large of the United States, Vol. 44, p. 1860.

ARTICLE XIII.

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

187. THE CIVIL RIGHTS ACT

Vetoed by Johnson, March 27, 1866, and passed over his veto April 9, by votes of 33-15, and 132-41.

Statutes at Large of the United States, Vol. 14, pp. 27-30.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, .. sell, .. and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, .. and to none other, any law, .. to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That any person who, under color of any law, .. shall subject, .. any inhabitant of any State or Territory to the deprivation of any right secured or protected by this

act, or to different punishment, . . on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

SEC. 3. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offences committed against the provisions of this act, . . and if any suit or prosecution, . . has been or shall be commenced in any State court, against any such person, for any cause whatsoever, or against any officer, civil or military, or other person, for any arrest or imprisonment, trespasses, or wrongs done or committed by virtue or under color of authority derived from this act or the act establishing a Bureau for the relief of Freedmen and Refugees, and all acts amendatory thereof, or for refusing to do any act upon the ground that it would be inconsistent with this act, such defendant shall have the right to remove such cause for trial to the proper district or circuit court. . .

.....

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

SEC. 10. *And be it further enacted*, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

LA FAYETTE S. FOSTER,

President of the Senate, *pro tempore*.

.....

In the Senate of the United States, April 6, 1866.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of

their vindication," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and,

Resolved, That the said bill do pass, two-thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,
Secretary of the Senate.

In the House of Representatives U. S. April 9th, 1866.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to protect all persons in the United States in their civil rights, and furnish the means of their vindication," returned to the Senate by the President of the United States, with his objections, and sent by the Senate to the House of Representatives, with the message of the President returning the bill:

Resolved, That the bill do pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWARD MCPHERSON, Clerk,
by CLINTON LLOYD, Chief Clerk.

188. THE FRENCH AND MEXICO

The attempt of French troops to uphold the Austrian Archduke who was Emperor of Mexico, was a subject of American protest during the Civil War. After the war those protests became too strong for France to disregard. The position of the United States is perhaps best summed up briefly in the following despatch of William H. Seward, the American Secretary of State, to J. Lothrop Motley, our minister at Vienna. The cause of this communication was the project of Austrian military support to Maximilian.

Executive Documents, 39 Congress, 1 session, 1865-66, Vol. 12.
No. 93, pp. 46-47. Washington, 1866.

MR. SEWARD TO MR. MOTLEY.

DEPARTMENT OF STATE,
WASHINGTON, APRIL 16, 1866.

SIR: I have had the honor to receive your despatch of the 27th of March, No. 155, which brings the important announcement that a treaty, called a "military supplementary convention," was ratified on the 15th of that month between the Emperor of Austria and the Prince Maximilian, who claims to be an emperor in Mexico.

You inform me that it is expected that about one thousand volunteers will be shipped (under this treaty) from Trieste to Vera Cruz very soon, and that at least as many more will be shipped in autumn.

I have heretofore given you the President's instructions to ask for explanations, and, conditionally, to inform the government of Austria that the despatch of military expeditions by Austria under such an arrangement as the one which seems now to have been consummated would be regarded with serious concern by the United States.

The subject has now been further considered in connexion with the official information thus recently received. The time seems to have arrived when the attitude of this government in relation to Mexican affairs should be once again frankly and distinctly made known to the Emperor of Austria, and all other powers whom it may directly concern. The United States, for reasons which seem to them to be just, and to have their foundation in the laws of nations, maintain that the domestic republican government with which they are in relations of friendly communication is the only legitimate government existing in Mexico; that a war has for a period of several years been waged against that republic by the government of France; which war began with a disclaim of all political or dynastic designs that that war has subsequently taken upon itself, and now distinctly wears the character of an European intervention to overthrow that domestic republican government, and to erect in its stead a European, imperial, military despotism by military force. The United States, in view of the character of their own political institutions, their proximity and intimate relations towards Mexico, and their just influence in the political affairs of the American continent, cannot consent to the accomplishment of that purpose by the means described. The United States have therefore addressed themselves, as they think, seasonably to the government of France, and have asked that its military forces, engaged in that objectionable political invasion, may desist from further intervention and be withdrawn from Mexico.

A copy of the last communication upon this subject, which was addressed by us to the government of France, is herewith transmitted for your special information. This paper will give you the true situation of the question. It will also enable you to satisfy the government of Vienna that the United States must be no less opposed to military intervention for political objects hereafter in Mexico by the government of Austria, than they are opposed to any further intervention of the same character in that country by France.

You will, therefore, at as early a day as may be convenient, bring the whole case, in a becoming manner, to the attention of the imperial

royal government. You are authorized to state that the United States sincerely desire that Austria may find it just and expedient to come upon the same ground of non-intervention in Mexico which is maintained by the United States, and to which they have invited France.

You will communicate to us the answer of the Austrian government to this proposition.

This government could not but regard as a matter of serious concern the despatch of any troops from Austria for Mexico while the subject which you are thus directed to present to the Austrian government remains under consideration.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

J. LOTHROP MOTLEY, ESQ., &c., VIENNA.

189. THE TENURE OF OFFICE ACT

Passed Congress February 19, 1867. Vetoed by Johnson, March 2, and passed over his veto the same day, 35-11, and 138-51. It was designed to prevent Johnson from hampering the reconstruction policy of Congress by his power of removals.

Statutes at Large of the United States, Vol. 14, Public Laws, pp. 430-432.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office . . . is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: Provided, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General, shall hold their offices respectively for and during the term of the President, by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

SEC. 2. *And be it further enacted, That when any officer appointed as aforesaid, excepting judges of the United States courts, shall, during a recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally disqualified to perform its duties, . .*

the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate . . . and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer, they shall so certify to the President, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, . . . *Provided, however,* That the President, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized, at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

.....

190. RECONSTRUCTION ACT OF MARCH 2, 1867

Passed Congress February 20, 1867: vetoed by Johnson March 2, it was passed over his veto the same day, 138-31 and 35-11. By it Congress finally wrested from the hands of the President control over reconstruction.

Statutes at Large of the United States, Vol. 14, Public Laws, pp. 428-430.

WHEREAS no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore;

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida

the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; . .

.....

SEC. 5. *And be it further enacted*, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and . . . shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, . . and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, . . known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law. . . *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC. 6. *And be it further enacted*, That, until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the

paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote, under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment.

191. THE PURCHASE OF ALASKA

March 30, 1867, William H. Seward concluded negotiations with Russia for the purchase of all Russian claims on the American continent. The formal transfer of the territory took place October 18, 1867.

Treaties and Conventions Since July 4th 1776, pp. 741-743.
Washington, 1873.

.....

ARTICLE I.

HIS Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, . . all the territory and dominion now possessed by his said Majesty on the continent of America and in the adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America. . .

“Commencing from the southernmost point of . . Prince of Wales Island, which point lies in the parallel of 54 degrees 40 minutes north latitude, and between the 131st and 133d degree of west longitude, (meridian of Greenwich,) the said line shall ascend to the north along the . . Portland Channel, as far as the point of the continent where it strikes the 56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude, (of the same meridian;) and finally, from the said point of intersection, the said meridian line of the 141st degree, in its prolongation as far as the Frozen Ocean.

. . . it is understood —

“1st. That the island called Prince of Wales Island shall belong wholly to Russia,” (now, by this cession to the United States.)

“2d. That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia . . . shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom.”

The western limit within which the territories and dominion conveyed are contained passes through a point in Behring's Straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern . . . and the island of Ratmanoff, .. and proceeds due north without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's Straits and Behring's Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kormandorski couplet . . . in the North Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

ARTICLE II.

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. . .

ARTICLE III.

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of the uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States. . .

.....

ARTICLE VI.

In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of His Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold...

ARTICLE VII.

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and, on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date hereof, or sooner if possible.

In faith whereof the respective Plenipotentiaries have signed this convention, and thereto affixed the seals of their arms.

Done at Washington the thirtieth day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

WILLIAM H. SEWARD. [L.S.]

EDOUARD DE STOECKL. [L.S.]

192. THE REMOVAL OF STANTON

Edwin M. Stanton, held over from Lincoln's Administration as Secretary of War, had played a more or less treacherous game of opposition to Johnson, who first removed him when Congress was not sitting, and then when the Senate reinstated him, removed him anew February 21, 1868. The following document is a temperate and able statement by Johnson as to his powers in the matter.

Richardson, Messages and Papers of the Presidents, Vol. 6, pp. 621-627.

WASHINGTON, D. C., February 22, 1868.

To the Senate of the United States:

I have received a copy of the resolution adopted by the Senate on the 21st instant, as follows:

Whereas the Senate have received and considered the communication of the President stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant-General of the Army to act as Secretary of War *ad interim*: Therefore,

Resolved by the Senate of the United States, That under the Constitution and laws of the United States the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that office ad interim.

.....

The uniform practice from the beginning of the Government, as established by every President who has exercised the office, and the decisions of the Supreme Court of the United States have settled the question in favor of the power of the President to remove all officers excepting a class holding appointments of a judicial character. No practice nor any decision has ever excepted a Secretary of War from this general power of the President to make removals from office.

It is only necessary, then, that I should refer to the power of the Executive, under the laws of the United States, to remove from office a Secretary of War. The resolution denies that under these laws this power has any existence. In other words, it affirms that no such authority is recognized or given by the statutes of the country.

What, then, are the laws of the United States which deny the President the power to remove that officer? I know but two laws which bear upon this question. The first in order of time is the act of August 7, 1789, creating the Department of War, which, after providing for a Secretary as its principal officer, proceeds as follows:

SEC. 2. *And be it further enacted,* That there shall be in the said Department an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and to be called the chief clerk in the Department of War, and who, whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall during such vacancy have the charge and custody of all records, books, and papers appertaining to the said Department.

It is clear that this act, passed by a Congress many of whose members participated in the formation of the Constitution, so far from denying the power of the President to remove the Secretary of War, recognizes it as existing in the Executive alone, without the concurrence of the Senate or of any other department of the Government. . .

The other act which refers to this question is that regulating the tenure of certain civil offices, passed by Congress on the 2d day of March, 1867. The first section of that act is in the following words:

That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified

to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General shall hold their offices, respectively, for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

The fourth section of the same act restricts the term of offices to the limit prescribed by the law creating them.

.....

Thus, as to these enumerated officers, the proviso takes from the President the power of removal except with the advice and consent of the Senate. By its terms, however, before he can be deprived of the power to displace them it must appear that he himself has appointed them. It is only in that case that they have any tenure of office or any independent right to hold during the term of the President and for one month after the cessation of his official functions. The proviso, therefore, gives no tenure of office to any one of these officers who has been appointed by a former President beyond one month after the accession of his successor.

In the case of Mr. Stanton, the only appointment under which he held the office of Secretary of War was that conferred upon him by my immediate predecessor, with the advice and consent of the Senate. He has never held from me any appointment as the head of the War Department. Whatever right he had to hold the office was derived from that original appointment and my own sufferance. The law was not intended to protect such an incumbent of the War Department by taking from the President the power to remove him... The consequence is that as to my Cabinet, embracing the seven officers designated in the first section, the act takes from me the power, without the concurrence of the Senate, to remove any one of them that I have appointed, but it does not protect such of them as I did not appoint, nor give to them any tenure of office beyond my pleasure.

.....

I have deemed it proper, in vindication of the course which I have considered it my duty to take, to place before the Senate the reasons upon which I have based my action. Although I have been advised by every member of my Cabinet that the entire tenure-of-office act is unconstitutional, and therefore void, and although I have expressly

concurred in that opinion in the veto message which I had the honor to submit to Congress when I returned the bill for reconsideration, I have refrained from making a removal of any officer contrary to the provisions of the law, and have only exercised that power in the case of Mr. Stanton, which, in my judgment, did not come within its provisions. I have endeavored to proceed with the greatest circumspection, and have acted only in an extreme and exceptional case, carefully following the course which I have marked out for myself as a general rule, faithfully to execute all laws, though passed over my objections on the score of constitutionality. In the present instance I have appealed, or sought to appeal, to that final arbiter fixed by the Constitution for the determination of all such questions. To this course I have been impelled by the solemn obligations which rest upon me to sustain inviolate the powers of the high office committed to my hands.

Whatever may be the consequences merely personal to myself, I could not allow them to prevail against a public duty so clear to my own mind, and so imperative. If what was possible had been certain, if I had been fully advised when I removed Mr. Stanton that in thus defending the trust committed to my hands my own removal was sure to follow, I could not have hesitated. Actuated by public considerations of the highest character, I earnestly protest against the resolution of the Senate which charges me in what I have done with a violation of the Constitution and laws of the United States.

ANDREW JOHNSON.

193. ARTICLES OF IMPEACHMENT AGAINST JOHNSON

February 24, 1868, the House of Representatives voted to impeach Johnson. The following articles, later drawn, endeavored to set Johnson's alleged violation of the Tenure of Office Act in the removal of Stanton, in various criminal lights: they also covered what were merely offenses of excessive partisanship and bad taste. Johnson's removal from office under the articles would practically have established the right of a two-thirds majority to remove a President who failed to agree with them politically. On Johnson's trial before the Senate that body fell just short of a two-thirds vote of conviction on the articles voted on: a larger number of senators was prepared to vote for acquittal if their votes were needed.

Richardson, Messages and Papers of the Presidents, Vol. 6, pp. 709-718.

ON the 24th of February, 1868, the House of Representatives of the Congress of the United States resolved to impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors, of which the Senate was apprised, and arrangements were made for the trial. On the 2d and 3d of March articles of impeachment were agreed upon the House of Representatives, and on the 4th they were presented to the Senate by the managers on the part of the House. . . The articles are as follows:

IN THE HOUSE OF REPRESENTATIVES,
UNITED STATES,

March 2, 1868.

ARTICLES EXHIBITED BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES, IN THE NAME OF THEMSELVES AND ALL THE PEOPLE OF THE UNITED STATES, AGAINST ANDREW JOHNSON, PRESIDENT OF THE UNITED STATES, IN MAINTENANCE AND SUPPORT OF THEIR IMPEACHMENT AGAINST HIM FOR HIGH CRIMES AND MISDEMEANORS IN OFFICE.

ARTICLE I. That said Andrew Johnson, President of the United States, on the 21st day of February, A. D. 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully and in violation of the Constitution and laws of the United States issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary; . .

.....

ART. II. That on said 21st day of February, A. D. 1868, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, . . did, . . issue and deliver to one Lorenzo Thomas a letter of authority in substance as follows; that is to say:

EXECUTIVE MANSION,
Washington, D. C., February 21, 1868.

Brevet Major-General LORENZO THOMAS,
Adjutant-General United States Army, Washington, D. C.

SIR: The Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

Respectfully, yours,

ANDREW JOHNSON.

...whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ART. III. That said Andrew Johnson, President of the United States, on the 21st day of February, A. D. 1868, at Washington, in the District of Columbia, did commit and was guilty of a high misdemeanor in office in this, that... he did appoint one Lorenzo Thomas to be Secretary for the Department of War *ad interim*, without the advice and consent of the Senate...

ART. IV. That said Andrew Johnson, President of the United States, .. did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, with intent, by intimidation and threats, unlawfully to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War...

ART. V. That said Andrew Johnson, President of the United States, .. did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, ..

ART. VI. That said Andrew Johnson, President of the United States, .. did unlawfully conspire with one Lorenzo Thomas by force to seize, take, and possess the property of the United States in the Department of War, and then and there in the custody and charge of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an act entitled "An act to define and punish certain

conspiracies," approved July 31, 1861, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; ..

ART. VII. That said Andrew Johnson, President of the United States, .. did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary for said Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; ..

ART. VIII. That said Andrew Johnson, President of the United States, .. did unlawfully, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in violation of the Constitution of the United States, .. then and there issue and deliver to one Lorenzo Thomas a letter of authority. . . [the letter cited in Article II.]

ART. IX. That said Andrew Johnson, President of the United States, on the 22d day of February, A.D. 1868, .. did bring before himself then and there William H. Emory, a major-general by brevet in the Army of the United States, actually in command of the Department of Washington and the military forces thereof, and did then and there, .. instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability through the next in rank," was unconstitutional and in contravention of the commission of said Emory, ..

ART. X. That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the Government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof (which all officers of the Government ought inviolably to preserve and main-

tain), and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and, in pursuance of his said design and intent, openly and publicly, and before divers assemblages of the citizens of the United States, convened in divers parts thereof to meet and receive said Andrew Johnson as the Chief Magistrate of the United States, did, on the 18th day of August, A.D. 1866, and on divers other days and times, as well before as afterwards, make and deliver with a loud voice certain intemperate, inflammatory, and scandalous harangues, and did therein utter loud threats and bitter menaces, as well against Congress as the laws of the United States, duly enacted thereby, amid the cries, jeers, and laughter of the multitudes then assembled and in hearing, which are set forth in the several specifications hereinafter written in substance and effect; that is to say:

Specification first. — In this, that at Washington, in the District of Columbia, in the Executive Mansion, to a committee of citizens who called upon the President of the United States, speaking of and concerning the Congress of the United States, said Andrew Johnson, President of the United States, heretofore, to wit, on the 18th day of August, A. D. 1866, did in a loud voice declare in substance and effect, among other things; that is to say:

.....

... We have seen hanging upon the verge of the Government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States. We have seen this Congress pretend to be for the Union, when its every step and act tended to perpetuate disunion and make a disruption of the States inevitable. *** We have seen Congress gradually encroach, step by step, upon constitutional rights, and violate, day after day and month after month, fundamental principles of the Government. We have seen a Congress that seemed to forget that there was a limit to the sphere and scope of legislation. We have seen a Congress in a minority assume to exercise power which, allowed to be consummated, would result in despotism or monarchy itself.

Specification second. — In this, that at Cleveland, in the State of Ohio, heretofore, to wit, on the 3d day of September, A.D. 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did in a loud voice declare in substance and effect, among other things; that is to say:

I will tell you what I did do. I called upon your Congress that is trying to break up the Government.

.....

Specification third.—In this, that at St. Louis, in the State of Missouri, heretofore, to wit, on the 8th day of September, A.D. 1866, before a public assemblage of citizens and others, said Andrew Johnson, President of the United States, speaking of and concerning the Congress of the United States, did in a loud voice declare in substance and effect, among other things; that is to say:

Go on. Perhaps if you had a word or two on the subject of New Orleans you might understand more about it than you do. . . If you will take up the riot at New Orleans and trace it back to the Radical Congress, you will find that the riot at New Orleans was substantially planned. If you will take up the proceedings in their caucuses, you will understand that they there knew that a convention was to be called which was extinct by its power having expired; that it was said that the intention was that a new government was to be organized, and on the organization of that government the intention was to enfranchise one portion of the population, called the colored population, who had just been emancipated, and at the same time disfranchise white men. . .

. . . which said utterances, declarations, threats, and harangues, highly censurable in any, are peculiarly indecent and unbecoming in the Chief Magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens; whereby said Andrew Johnson, President of the United States, did commit and was then and there guilty of a high misdemeanor in office.

ART. XI. That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, and in disregard of the Constitution and laws of the United States, did heretofore, to wit, on the 18th day of August, A.D. 1866, at the city of Washington, in the District of Columbia, by public speech, declare and affirm in substance that the Thirty-ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same, but, on the contrary, was a Congress of only part of the States; . .

SCHUYLER COLFAX,

Speaker of the House of Representatives.

EDWARD McPHERSON,

Clerk of the House of Representatives.

194. THE FOURTEENTH AMENDMENT

Adopted by Congress, June 13, 1866, by votes of 33-11 and 138-36. It was rejected by Delaware, Maryland, Kentucky, Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana and Texas. The Reconstruction Act of March 2, 1867, made its adoption a condition of the restoration of the former Confederate states. July 20, 1868, the Secretary of State announced ratification by North Carolina, South Carolina, Florida, Alabama, Louisiana and Arkansas. Congress decided to disregard the fact that New Jersey and Ohio had rescinded their ratifications, and declared it in force. It was officially proclaimed July 28, 1868.

Statutes at Large of the United States, Vol. 15, Amendments, Appendix xiii.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Con-

stitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

195. THE FIFTEENTH AMENDMENT

Passed Congress in February, 1869. Ratification completed March 30, 1870.

Statutes at Large of the United States, *Vol. 44, part 1, p. 1861.*

ARTICLE XV

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

196. THE CIVIL SERVICE COMMISSION OF 1871

The beginning of the Civil Service system in the Federal administration. It was not finally established until 1883.

Statutes at Large of the United States, *Vol. 16, Public Laws, pp. 495-514.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, . .

.....

SEC. 9. That the President of the United States be, and he is hereby, authorized to prescribe such rules and regulations for the admission of persons into the civil service of the United States as will best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose the President is authorized to employ suitable persons to conduct said inquiries, to prescribe their duties, and to establish regulations for the conduct of persons who may receive appointments in the civil service.

APPROVED, March 3, 1871.

197. THE FOUNDING OF THE GRANGE

The post Civil War period was marked by increasing unrest among farmers North and South, unrest at high prices of manufactures due to the tariff, at low prices of farm products, and at extortionate railroad rates. The Grange was a secret society established in 1867 for the purposes of organizing the farmers for their general betterment. Some material typical of the early activity of the Grange and its followers is given below.

O. H. Kelley, *Origin and Progress of the Order of the Patrons of Husbandry in the United States*, pp. 12-413. Philadelphia, 1875.

.....

NATIONAL GRANGE, WASHINGTON, D. C., September, 1868.

In response to numerous inquiries in regard to the organization and objects of our Order, this circular is issued. The Order was organized, after much labor and preparation, by a number of distinguished Agriculturists, of various States of the Union, at Washington, in December, 1867, and since then has met with most encouraging success, giving assurance that it will soon become one of the most useful and powerful organizations in the United States. Its grand object is not only general improvement in husbandry, but to increase the general happiness, wealth and prosperity of the country. It is founded upon the axioms that the products of the soil comprise the basis of all wealth; that individual happiness depends upon general prosperity, and that the wealth of a country depends upon the general intelligence and mental culture of the producing classes. The best mode of securing a diffusion of knowledge, with a view to its application for the increase of the products of the soil, is, therefore one of the most important questions that can be propounded, and

we hope to greatly facilitate its solution by the results that will follow the work of this organization.

All existing popular modes of creating an interest in agricultural and kindred pursuits have been carefully scanned and studied. Agricultural fairs enlist attention, and, to a certain extent, excite competition, but it is becoming a matter of history that these associations are now gradually losing their influence. . . Clubs for mutual instruction and friendly interchange of ideas, seem, also, to lose their interest as soon as the first excitement of organization is passed. Even Fruit Growers' Societies, with all their attractions, only enlist a few enthusiasts, whose efforts are scarcely felt by the great producing masses of the country. . .

When we reflect upon the fact that certain associations have stood the test of ages, — many centuries — as, for example, the Masonic Order, we may well pause and ask: "In what does their permanency consist?" We can find but one satisfactory answer to this question, and that is in their ritual, secrecy, fraternity, and mutual benefits. If, then, these are the efficient elements of extension, permanency and success, why not employ them for the dissemination of useful knowledge, and a more general and effective organization of communities engaged in rural pursuits? and this we propose, not only for their benefit, but also for the increase of national wealth and power. If these are available accessories for the permanent organization of husbandmen, — all other means having failed, — why not adopt them? If a *secret* organization of Husbandmen, with an appropriate and impressive ceremony of initiation, will secure fraternity, unity, efficiency, discipline and permanency, — as the projectors of this Order believe, — all intelligent citizens, and especially those engaged in rural pursuits, will approve and sustain our enterprise, and extend to the Patrons of Husbandry their unqualified approval and support.

Women are admitted into our Order, as well as young persons of both sexes over the age of sixteen and eighteen respectively. . .

.....

We solicit the co-operation of woman, because of a conviction that without her aid, success will be less certain and decided. Much might be said in this connection, but every husband and brother knows that where he can be accompanied by his wife or sister, no lessons will be learned but those of purity and truth.

.....

We ignore all political or religious discussions in the Order; we do not solicit the patronage of any sect, association or individual, upon any grounds whatever, except upon the intrinsic merits of the Order. It needs no such patronage, and would not be what it is if it did.

Its objects, as already indicated, are to advance education, to elevate and dignify the occupation of the farmer, and to protect its members against the numerous combinations by which their interests are injuriously affected.

There is no association that secured so many advantages to its members as this.

The Order of the PATRONS OF HUSBANDRY will accomplish a thorough and systematic organization among Farmers and Horticulturists throughout the United States, and will secure among them intimate social relations and acquaintance with each other, for the advancement and elevation of their pursuits, with an appreciation and protection of their true interests. . .

.....

Among other advantages which may be derived from the Order, can be mentioned, systematic arrangements for procuring and disseminating, in the most expeditious manner, information relative to crops, demand and supply, prices, markets, and transportation throughout the country, and for the establishment of depots for the sale of special or general products in the cities; also for the purchase and exchange of stock, seeds, and desired varieties of plants and trees, and for the purpose of procuring help at home or from abroad, and situations for persons seeking employment; also for ascertaining and testing the merits of newly invented farming implements and those not in general use, and for detecting and exposing those that are unworthy, and for protecting, by all available means, the farming interests from fraud and deception of every kind.

In conclusion, we desire that agricultural societies shall keep step with the music of the age, and keep pace with improvements in the reaping machine and steam engine. In this Order we expect to accomplish these results. Every Grange is in intimate relation with its neighboring Granges, and these with the State Grange, and the State Granges, are in unity with the National Grange. Valuable information, and benefits enjoyed by one, are communicated to all. The old style of Farmers' Clubs, like the old sickle and flail, were very good in their day, but they are of the past, and are too far behind all other enterprise in the progress of civilization. Hence the necessity of this new Order.

O. H. KELLEY,

Secretary of the National Grange.

It was on this circular we based the real foundation of the Order, and on North Star Grange as the leader in a forlorn hope. To Col. D. A. Robertson is the credit due for establishing this Grange, which, up to this date, has never missed a meeting. Since 1869, have held two meetings regularly every month. When we seek for founders of this Order, Col. Robertson must be COUNTED IN.

.....

On the 23d of May, 1870, I received from Brother Corbett a lengthy letter, which I read at the June meeting of the State Grange of Minnesota. It gave such general satisfaction that it was ordered to be printed for circulation, and reads as follows:

PRAIRIE FARMER OFFICE,
CHICAGO, May 20th, 1870.

O. H. KELLEY,

Secretary of the National Grange, P. of H.:

DEAR SIR AND BROTHER:

It seems to me that we, as an Order, have a work to perform in the war that is to be waged in this country, at no distant day, by the people, against the monstrous monopolies that are overshadowing us. Railroad, Insurance Companies, Warehouse and Telegraph Companies, are crushing the life out of the producing classes. I need not attempt an elaborate showing of their power, or their unscrupulous use of it. Every Patron of Husbandry is aware of the fact. It is but to-day that I read in the dispatches from England, that the *London Times*, the great exponent of popular feeling and thought in England, characterizes the operations of the managers of the Erie Railway as on a par, (or worse,) with those of the Greek bandits that have lately pillaged and ravished on the road from Athens to Marathon. It points out how the credit of the whole country is suffering from an example like this, and asks how we can expect foreign capital to seek investment in improvements here, if our Legislatures and Courts are to set aside all justice and right in the treatment of foreign stockholders, and to favor unlimited plunder by powerful and unscrupulous local managers.

We know the claim of vested rights that Railroad Companies, in the West especially, lay claim to. A corporation, on the plea of public interests, gets the right of way, condemns property — our very homesteads, perhaps; to do this, they are public corporations, acting for the public good. The charter and right of way once gained, this public character ceases, and railroad companies are private institutions and not amenable to Legislatures or Courts, because the legislature has given away its power to regulate them. They can extort, oppress, rob. They can discriminate in favor of certain localities and individuals; they can combine with owners of warehouses, or build warehouses of their own, and force shippers to pay toll on every bushel of grain that passes over their road; they can and do refuse to deliver grain or other produce, except to such persons or companies as may pay into their own coffers.

It is alleged that Eastern roads are purchasing our Lake Marine, so that freight sent East by lake to pass over the Erie Canal, must pay a large advance over that consigned to go by rail from that point to the seaboard. You, wheat growers of Minnesota, who pay three times as much to get your crops to New York as it costs to send it from there to Liverpool, *feel and know* that the hand of the giant oppressor is upon you. You know how the monopolists scoff at and ridicule all efforts that are made to send your grain by way of the Mississippi river. You know how the lines running North-west from this city have been consolidated so as to avoid competition, and you know that each year the monopoly extends. Knowing all these things, and feeling deeply the burden that is being laid upon us, what are we to do? simply meet power with power; meet organization with organization. We, as PATRONS OF HUSBANDRY, have united for common good and for common protection. We

are to protect our own interests, because we know that our interests are fundamental, that our prosperity means the prosperity of the nation. We know that justice to us as producers, means no injustice to others. We trample on no man's just rights, never have and never shall; let us resolve to have no man or corporation trample upon ours.

We must have our State Governments to declare that when corporations, of whatever kind or nature, are managed to the detriment of public interests, their charters shall be forfeited. In brief, that the State knows no power above that of the people; that railroad and other transportation companies can exist only so long as they subserve public interest. Let us have Legislatures and Judges learn that all political power is inherent in and must always remain with the people.

.....

Whenever we present formidable numbers, all candidates will be at our feet, and we can then divide up and vote with whichever party we please, in accordance with other issues and proclivities, for our own great interests will be safe with either. If we have the best men in our Order, we must give them the offices, but in general we shall not need to go into a political organization by ourselves.

These are some of my views, hastily and imperfectly presented. They are not new, but are held by a large and growing number of our best men. Opposition to monopolies seems to me to be entirely consistent with the design of our Order; with it as one of the watch-words, I believe we have the opportunity of extending our Granges indefinitely throughout all these Northwestern States.

Yours fraternally,

W. W. CORBETT.

This was boldly striking out in a direction that would find us an able adversary...

.....

198. THE GENEVA ARBITRATION

By the Treaty of Washington of May 8, 1871, the United States and Great Britain agreed to leave to international arbitration various issues between the two governments, the most important of which were the so-called "Alabama claims," arising from the United States' complaint of the alleged slackness of the British government in allowing the "Alabama" and other Confederate cruisers to escape to sea. An arbitration concluded at Geneva, Switzerland, September 14, 1872, settled the question of the Alabama claims. The whole proceeding was an outstanding triumph for the method of settling disputes between nations by arbitration, instead of war.

House Miscellaneous Documents. 53 Congress, 2 session, 1893-1894. Vol. 39 History and Digest of International Arbitrations. Vol. 1. pp. 653-659. Washington, 1898.

DECISION AND AWARD

MADE by the tribunal of arbitration constituted by virtue of the first article of the treaty concluded at Washington the 8th of May, 1871, between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland.

The United States of America and Her Britannic Majesty having agreed by Article I. of the treaty concluded and signed at Washington the 8th of May, 1871, to refer all the claims "generically known as the Alabama claims" to a tribunal of arbitration to be composed of five arbitrators named:

- One by the President of the United States,
- One by Her Britannic Majesty,
- One by His Majesty the King of Italy,
- One by the President of the Swiss Confederation,
- One by His Majesty the Emperor of Brazil;

And the President of the United States, Her Britannic Majesty, His Majesty the King of Italy, the President of the Swiss Confederation, and His Majesty the Emperor of Brazil having respectively named their arbitrators, to wit:

The President of the United States, Charles Francis Adams, esquire;

Her Britannic Majesty, Sir Alexander James Edmund Cockburn, baronet, a member of Her Majesty's privy council, lord chief justice of England;

His Majesty the King of Italy, His Excellency Count Frederick Sclopis, of Salerano, a knight of the Order of the Annunciata, minister of state, senator of the Kingdom of Italy;

The President of the Swiss Confederation, M. James Stämpfli;

His Majesty the Emperor of Brazil, His Excellency Marcos Antonio d'Araújo, Viscount d'Itajubá, a grandee of the Empire of Brazil, member of the council of H. M. the Emperor of Brazil, and his envoy extraordinary and minister plenipotentiary in France.

And the five arbitrators above named having assembled at Geneva (in Switzerland) in one of the chambers of the Hôtel de Ville on the 15th of December, 1871, in conformity with the terms of the second

article of the Treaty of Washington, of the 8th of May of that year, and having proceeded to the inspection and verification of their respective powers, which were found duly authenticated, the tribunal of arbitration was declared duly organized.

.....

The tribunal. . .

Has arrived at the decision embodied in the present award:

Whereas, having regard to the VIth and VIIth articles of the said treaty, the arbitrators are bound under the terms of the said VIth article, "in deciding the matters submitted to them, to be governed by the three rules therein specified and by such principles of international law, not inconsistent therewith, as the arbitrators shall determine to have been applicable to the case; "

And whereas the "due diligence" referred to in the first and third of the said rules ought to be exercised by neutral governments in exact proportion to the risks to which either of the belligerents may be exposed, from a failure to fulfil the obligations of neutrality on their part;

And whereas the circumstances out of which the facts constituting the subject-matter of the present controversy arose were of a nature to call for the exercise on the part of Her Britannic Majesty's government of all possible solicitude for the observance of the rights and the duties involved in the proclamation of neutrality issued by Her Majesty on the 13th day of May, 1861;

.....

And whereas, with respect to the vessel called the *Alabama*, it clearly results from all the facts relative to the construction of the ship at first designated by the number "290" in the port of Liverpool, and its equipment and armament in the vicinity of Terceira through the agency of the vessels called the "*Agrippina*" and the "*Bahama*," dispatched from Great Britain to that end, that the British government failed to use due diligence in the performance of its neutral obligations; and especially that it omitted, notwithstanding the warnings and official representations made by the diplomatic agents of the United States during the construction of the said number "290," to take in due time any effective measures of prevention, and that those orders which it did give at last, for the detention of the vessel, were issued so late that their execution was not practicable;

And whereas, after the escape of that vessel, the measures taken for its pursuit and arrest were so imperfect as to lead to no result, and

therefore cannot be considered sufficient to release Great Britain from the responsibility already incurred;

And whereas, in despite of the violations of the neutrality of Great Britain committed by the "290," this same vessel, later known as the confederate cruiser *Alabama*, was on several occasions freely admitted into the ports or colonies of Great Britain, instead of being proceeded against as it ought to have been in any and every port within British jurisdiction in which it might have been found;

And whereas the government of Her Britannic Majesty cannot justify itself for a failure in due diligence on the plea of insufficiency of the legal means of action which it possessed;

Four of the arbitrators, for the reasons above assigned, and the fifth for reasons separately assigned by him,

Are of opinion —

That Great Britain has in this case failed, by omission, to fulfill the duties prescribed in the first and the third of the rules established by the VIth article of the Treaty of Washington.

And whereas, with respect to the vessel called the "*Florida*," it results from all the facts relative to the construction of the "*Oreto*" in the port of Liverpool, and to its issue therefrom, which facts failed to induce the authorities in Great Britain to resort to measures adequate to prevent the violation of the neutrality of that nation, notwithstanding the warnings and repeated representations of the agents of the United States, that Her Majesty's government has failed to use due diligence to fulfil the duties of neutrality;

And whereas it likewise results from all the facts relative to the stay of the "*Oreto*" at Nassau, to her issue from that port, to her enlistment of men, to her supplies, and to her armament, with the cooperation of the British vessel "*Prince Alfred*," at Green Cay, that there was negligence on the part of the British colonial authorities;

And whereas, notwithstanding the violation of the neutrality of Great Britain committed by the *Oreto*, this same vessel, later known as the confederate cruiser *Florida*, was nevertheless on several occasions freely admitted into the ports of British colonies;

And whereas the judicial acquittal of the *Oreto* at Nassau cannot relieve Great Britain from the responsibility incurred by her under the principles of international law; nor can the fact of the entry of the *Florida* into the confederate port of Mobile, and of its stay there during four months, extinguish the responsibility previously to that time incurred by Great Britain:

For these reasons,

The tribunal, by a majority of four voices to one, is of opinion —

That Great Britain has in this case failed, by omission, to fulfil the duties prescribed in the first, in the second, and in the third of the rules established by Article VI. of the treaty of Washington.

And whereas, with respect to the vessel called the “Shenandoah,” it results from all the facts relative to the departure from London of the merchant-vessel the “Sea King,” and to the transformation of that ship into a confederate cruiser under the name of the Shenandoah, near the island of Madeira, that the government of Her Britannic Majesty is not chargeable with any failure, down to that date, in the use of due diligence to fulfil the duties of neutrality;

But whereas it results from all the facts connected with the stay of the Shenandoah at Melbourne, and especially with the augmentation which the British government itself admits to have been clandestinely effected of her force, by the enlistment of men within that port, that there was negligence on the part of the authorities at that place:

For these reasons,

The tribunal is unanimously of opinion —

That Great Britain has not failed, by any act or omission, “to fulfil any of the duties prescribed by the three rules of Article VI. in the treaty of Washington, or by the principles of international law not inconsistent therewith,” in respect to the vessel called the Shenandoah, during the period of time anterior to her entry into the port of Melbourne;

And by a majority of three to two voices, the tribunal decides that Great Britain has failed, by omission, to fulfil the duties prescribed by the second and third of the rules aforesaid, in the case of this same vessel, from and after her entry into Hobson’s Bay, and is therefore responsible for all acts committed by that vessel after her departure from Melbourne, on the 18th day of February, 1865.

And so far as relates to the vessels called —

The Tuscaloosa, (tender to the Alabama,)

The Clarence,

The Tacony, and

The Archer, (tenders to the Florida,)

The tribunal is unanimously of opinion —

That such tenders or auxiliary vessels, being properly regarded as accessories, must necessarily follow the lot of their principals, and be submitted to the same decision which applies to them respectively.

And so far as relates to the vessel called “Retribution,”

The tribunal, by a majority of three to two voices, is of opinion —

That Great Britain has not failed, by any act or omission, to fulfil

any of the duties prescribed by the three rules of Article VI. in the treaty of Washington, or by the principles of international law not inconsistent therewith.

And so far as relates to the vessels called —

The Georgia,

The Sumter,

The Nashville,

The Tallahassee, and

The Chickamauga, respectively,

The tribunal is unanimously of opinion —

That Great Britain has not failed, by any act of omission, to fulfil any of the duties prescribed by the three rules of Article VI. in the treaty of Washington, or by the principles of international law not inconsistent therewith.

And so far as relates to the vessels called —

The Sallie,

The Jefferson Davis,

The Music,

The Boston, and

The V. H. Joy, respectively,

The tribunal is unanimously of opinion —

That they ought to be excluded from consideration for want of evidence.

And whereas, so far as relates to the particulars of the indemnity claimed by the United States, the costs of pursuit of the confederate cruisers are not, in the judgment of the tribunal, properly distinguishable from the general expenses of the war carried on by the United States:

The tribunal is, therefore, of opinion, by a majority of three to two voices —

That there is no ground for awarding to the United States any sum by way of indemnity under this head.

And whereas prospective earnings cannot properly be made the subject of compensation, inasmuch as they depend in their nature upon future and uncertain contingencies:

The tribunal is unanimously of opinion —

That there is no ground for awarding to the United States any sum by way of indemnity under this head.

And whereas, in order to arrive at an equitable compensation for the damages which have been sustained, it is necessary to set aside all double claims for the same losses, and all claims for "gross freights," so far as they exceed "net freights; "

And whereas it is just and reasonable to allow interest at a reasonable rate;

And whereas, in accordance with the spirit and letter of the Treaty of Washington, it is preferable to adopt the form of adjudication of a sum in gross, rather than to refer the subject of compensation for further discussion and deliberation to a board of assessors, as provided by Article X. of the said treaty:

The tribunal, making use of the authority conferred upon it by Article VII. of the said treaty, by a majority of four voices to one, awards to the United States a sum of \$15,500,000 in gold, as the indemnity to be paid by Great Britain to the United States, for the satisfaction of all the claims referred to the consideration of the tribunal, conformably to the provisions contained in Article VII. of the aforesaid treaty.

And, in accordance with the terms of Article XI. of the said treaty, the tribunal declares that "all the claims referred to in the treaty as submitted to the tribunal are hereby fully, perfectly, and finally settled."

Furthermore it declares, that "each and every one of the said claims, whether the same may or may not have been presented to the notice of, or made, preferred, or laid before the tribunal, shall henceforth be considered and treated as finally settled, barred, and inadmissible."

In testimony whereof this present decision and award has been made in duplicate, and signed by the arbitrators who have given their assent thereto, the whole being in exact conformity with the provisions of Article VII. of the said treaty of Washington.

Made and concluded at the Hôtel de Ville at Geneva, in Switzerland, the 14th day of the month of September, in the year of our Lord one thousand eight hundred and seventy-two.

CHARLES FRANCIS ADAMS.
FREDERICK SCLOPIS.
STÄMPFLI.
VICOMTE D'ITAJUBÁ.

199. THE "CRIME OF 1873."

Since the establishment of the national coinage, Congress had vainly been trying to find a ratio of coinage between gold and silver at which both medals would be brought to the mint for coinage. Finally, in

despair of succeeding in the attempt, in 1853 Congress tacitly abandoned the attempt to establish a ratio in which the silver dollar would be coined. In the following act of 1873, the silver dollar was omitted from the list of coins minted. The advocates of currency inflation by the free coinage of silver, fastened on this as a result of a plot to demonetize silver and termed it the "Crime of '73."

Statutes at Large of the United States, Vol. 17, Public Laws, pp. 424-436.

BE it enacted by the Senate and House of Representatives of the United States in Congress assembled, . .

.....

SEC. 13. That the standard for both gold and silver coins of the United States shall be such that of one thousand parts by weight nine hundred shall be of pure metal and one hundred of alloy; . .

SEC. 14. That the gold coins of the United States shall be a one-dollar piece, which, at the standard weight of twenty-five and eight-tenths grains, shall be the unit of value; a quarter-eagle, or two-and-a-half-dollar piece; a three-dollar piece; a half-eagle, or five-dollar piece; and eagle, or ten-dollar piece; and a double eagle, or twenty-dollar piece. . .

SEC. 15. That the silver coins of the United States shall be a trade-dollar, a half-dollar, or fifty-cent piece, a quarter-dollar, or twenty-five cent piece, a dime, or ten-cent piece; and the weight of the trade-dollar shall be four hundred and twenty grains troy; the weight of the half-dollar shall be twelve grams (grammes) and one-half of a gram, (gramme;) the quarter-dollar and the dime shall be respectively, one-half and one-fifth of the weight of said half-dollar; and said coins shall be a legal tender at their nominal value for any amount not exceeding five dollars in any one payment.

.....

SEC. 17. That no coins, either of gold, silver, or minor coinage, shall hereafter be issued from the mint other than those of the denominations, standards, and weights herein set forth.

.....

SEC. 21. That any owner of silver bullion may deposit the same at any mint, to be formed into bars, or into dollars of the weight of four hundred and twenty grains, troy, designated in this act as trade-dollars, and no deposit of silver for other coinage shall be received; . .

.....

SEC. 25. That the charge for converting standard gold bullion into coin shall be one-fifth of one per centum; and the charges for converting standard silver into trade-dollars, . . shall be fixed, from time to time, by the director, but with the concurrence of the Secretary of the Treasury, so as to equal but not exceed, in their judgment, the actual average cost to each mint and assay-office of the material, labor, wastage, and use of machinery employed in each of the cases aforementioned.

.....

SEC. 67. That this act shall be known as the "Coinage act of eighteen hundred and seventy-three;" and all other acts and parts of acts pertaining to the mints, assay-offices, and coinage of the United States inconsistent with the provisions of this act are hereby repealed:

.....

APPROVED, February 12, 1873.

200. THE RESUMPTION OF SPECIE PAYMENTS

Ever since the issue of the greenbacks in the Civil War period they had circulated at a discount as compared with gold. In the post Civil War period proposals for retiring them were repeatedly advanced and repeatedly opposed by the advocates of currency inflation. By the following act of January 14, 1875, the Secretary of the Treasury was authorized to collect a sufficient reserve in gold to redeem the greenbacks on demand at the Treasury, after January 1, 1879. A subsequent act provided for their continuance in circulation to an amount of approximately \$346,000,000. Since December, 1878, they have circulated at an absolute parity with gold.

Statutes at Large of the United States, Vol. 18, Public Laws, p. 296. Washington, 1875.

CHAP. 15. — An act to provide for the resumption of specie payments.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and required, as rapidly as practicable, to cause to be coined at the mints of the United States, silver coins of the denominations of ten, twenty-five and fifty cents, of standard value, and to issue them in redemption of an equal number and amount of fractional currency of similar denominations, . .

.....

... And on and after the first day of January, anno Domini eighteen hundred and seventy-nine, the Secretary of the Treasury shall redeem, in coin, the United States legal-tender notes then outstanding on their presentation for redemption, at the office of the assistant treasurer of the United States in the city of New York, in sums of not less than fifty dollars. And to enable the Secretary of the Treasury to prepare and provide for the redemption in this act... he is authorized to use any surplus revenues, from time to time, in the Treasury not otherwise appropriated, and to issue, . . at not less than par, in coin, either of the descriptions of bonds of the United States described in the act of Congress approved July fourteenth, eighteen hundred and seventy, entitled, "An act to authorize the refunding of the national debt," with like qualities, privileges, and exemptions, to the extent necessary to carry this act into full effect, and to use the proceeds thereof for the purposes aforesaid. And all provisions of law inconsistent with the provisions of this act are hereby repealed.

APPROVED, January 14, 1875.

201. THE MULLIGAN LETTERS

The corruption, direct and indirect, of members of the Congress and of the government, by financial interests desiring special favors is one of the tragic aspects of the reconstruction period. A single instance here given, has its relieving note of comedy. This is the dramatic self defense against a charge of indirect corruption of James G. Blaine, one of the most dramatic, magnetic, and beloved personalities in the politics of the era. The date is June 5, 1876.

Congressional Record, Vol. 4, part 4, 44 Congress, 1 session, pp. 3602-3611.

Mr. BLAINE. Mr. Speaker, on the 2d day of May this resolution was passed by the House:

Whereas it is publicly alleged, and is not denied by the officers of the Union Pacific Railroad Company, that that corporation did, in the year 1871 or 1872, become the owner of certain bonds of the Little Rock and Fort Smith Railroad Company, for which bonds the said Union Pacific Railroad Company paid a consideration largely in excess of their actual or market value. . . Therefore,

Be it resolved, That the Committee on the Judiciary be instructed to inquire if any such transaction took place, and, if so, what were the circum-

stances and inducements thereto, . . and that the committee have power to send for persons and papers.

That resolution on its face, and in its fair intent, was obviously designed to find out whether any improper thing had been done by the Union Pacific Railroad Company; and of course, incidentally thereto, to find out with whom the transaction was made. . .

No sooner was the subcommittee designated than it became entirely obvious that the resolution was solely and only aimed at me. . .

.....

Now, I say — and I state it boldly — that, under these general powers to investigate Pacific railroads and their transactions, the whole enginery of this committee is aimed personally at me; and I want that to be understood by the country. I have no objection to it; but I want you by name to organize a committee to investigate JAMES G. BLAINE. I want to meet the question squarely. That is the whole aim and intent; and the gentleman from Virginia and the gentleman from Kentucky [Mr. KNOTT] will pardon me for saying that when this investigation was organized I felt that such was the whole purpose and object. . .

.....

When the famous witness Mulligan came here loaded with information in regard to the Fort Smith road, the gentleman from Virginia drew out what he knew had no reference whatever to the question of investigation. He then and there insisted on all of my private memoranda being allowed to be exhibited by that man in reference to business that had no more connection, no more relation, no more to do with that investigation than with the North Pole.

And the gentleman tried his best, also, though I believe that has been abandoned, to capture and use and control my private correspondence. This man had selected out of correspondence running over a great many years letters which he thought would be peculiarly damaging to me. He came here loaded with them. He came here for a sensation. He came here primed. He came here on that particular errand. I was advised of it, and I obtained those letters under circumstances which have been notoriously scattered throughout the United States, and are known to everybody. I have them. I claim I have the entire right to those letters, not only by natural right, but upon all the precedents and principles of law, as the man who held those letters in possession held them wrongfully. . .

.....

... Then there went forth everywhere the idea and impression that because I would not permit that man or any man whom I could prevent from holding as a menace over my head my private correspondence there must be something in it most deadly and destructive to my reputation. I would like any gentleman on this floor — and all gentlemen on this floor are presumed to be men of affairs, whose business has been varied, whose intercourse has been large — I would like any gentleman to stand up here and tell me that he is willing and ready to have his private correspondence scanned over and made public for the last eight or ten years. . . Does it imply guilt? Does it imply wrong-doing? Does it imply any sense of weakness that a man will protect his private correspondence? . .

Now, Mr. Speaker, I say that I have defied the power of the House to compel me to produce those letters. . . But, sir, having vindicated that right, standing by it, ready to make any sacrifice in the defense of it, here and now if any gentleman wants to take issue with me on behalf of this House I am ready for any extremity of contest or conflict in behalf of so sacred a right. And while I am so, I am not afraid to show the letters. Thank God Almighty I am not ashamed to show them. There they are, [holding up a package of letters.] There is the very original package. And with some sense of humiliation, with a mortification that I do not pretend to conceal, with a sense of outrage which I think any man in my position would feel, I invite the confidence of 44,000,000 of my countrymen while I read those letters from this desk. [Applause.]

.....

Mr. BLAINE. Now as regards many of those letters I have not the slightest feeling in reading them. Some of them will require a little explanation. Some of them may possibly, as I have said, involve a feeling of humiliation. But I would a great deal rather take that than take the evil surmises and still more evil inferences which might be drawn if I did not act with this frankness.

.....

I take these letters up quite miscellaneous. . .

AUGUSTA, *June 29, 1869.*

My Dear Mr. Fisher: I thank you for the article from Mr. Lewis. It is good in itself, and will do good. He writes like a man of large intelligence and comprehension.

Your offer to admit me to a participation in the new railroad enter-

prise is in every respect as generous as I could expect or desire. I thank you very sincerely for it, and in this connection I wish to make a suggestion of a somewhat selfish character. It is this: You spoke of Mr. Caldwell disposing of a share of his interest to me. If he really designs to do so, I wish he would make the proposition definite, so that I could know just what to depend on. Perhaps if he waits till the full development of the enterprise he might grow reluctant to part with the share; and I do not by this mean any distrust of him.

I do not feel that I shall prove a dead-head in the enterprise if I once embark in it. I see various channels in which I know I can be useful.

Very hastily and sincerely, your friend,

J. G. BLAINE.

MR. FISHER,

India street, Boston.

Mr. FRYE. I desire to ask my colleague if the trade which is alluded to there between him and Mr. Caldwell, called a share, or scheme, or something of that kind, was ever entered into between him and Mr. Caldwell?

Mr. BLAINE. It was not. That was a proposition to sell me a share in what was called the bed-rock of the road, to let me be interested in the building of it. That transaction was never consummated. All that I ever had to do with the road was this most unfortunate transaction of my life, pecuniarily and otherwise, in buying and selling some of the bonds.

.....

Mr. BLAINE. Now, Mr. Speaker, I would be glad to have any gentleman who desires to be frank examine these letters, as they will be printed in the RECORD, and see the obvious intent and animus of Mulligan in making up this memorandum; I will not further comment on it. I desire to call attention to the fact that these are the letters for which I was ready to commit "suicide," and do sundry and divers other desperate things in order to acquire them.

I do not wish to detain the House, but I have one or two more observations to make. The specific charge that went to the committee of which the honorable gentleman from Virginia is chairman, so far as it affects me, was whether I was a party in interest to the sixty-four-thousand-dollar transaction; and I submit that up to this time there has not been one particle of proof before the committee sustaining that charge...

There has not been, I say, one positive piece of testimony in any direction. They sent to Arkansas to get some hearsay about bonds. They

sent to Boston to get some hearsay. Mulligan was contradicted by Fisher, and Atkins and Scott swore directly against him. . .

Now, gentlemen, those letters I have read were picked out of correspondence extending over fifteen years. The man did his worst, the very worst he could, out of the most intimate business correspondence of my life. I ask gentlemen if any of you, and I ask it with some feeling, can stand a severer scrutiny of or more rigid investigation into your private correspondence? That was the worst he could do.

There is one piece of testimony wanting. There is but one thing to close the complete circle of evidence. There is but one witness whom I could not have, to whom the Judiciary Committee, taking into account the great and intimate connection he had with the transaction, was asked to send a cable dispatch, and I ask the gentleman from Kentucky if that dispatch was sent to him?

Mr. FRYE. Who?

Mr. BLAINE. To Josiah Caldwell.

Mr. KNOTT. I will reply to the gentleman that Judge HUNTON and myself have both endeavored to get Mr. Caldwell's address and have not yet got it.

Mr. BLAINE. Has the gentleman from Kentucky received a dispatch from Caldwell?

Mr. KNOTT. I will explain that directly.

Mr. BLAINE. I want a categorical answer.

Mr. KNOTT. I have received a dispatch purporting to be from Mr. Caldwell.

.....

Mr. BLAINE. I heard you got a dispatch last Thursday morning at eight o'clock from Josiah Caldwell completely and absolutely exonerating me from this charge, and you have suppressed it. [Protracted applause upon the floor and in the galleries.] I want the gentleman to answer. [After a pause.] Does the gentleman from Kentucky decline to answer?

.....

Mr. BLAINE. The gentleman from Kentucky in responding probably, I think, from what he said, intended to convey the idea I had some illegitimate knowledge of how that dispatch was obtained. I have had no communication with Josiah Caldwell. I have had no means of knowing from the telegraph office whether the telegram was received. But I tell the gentleman from Kentucky that murder will out.

Mr. GLOVER. That is true.

Mr. BLAINE. And secrets will leak. And I tell the gentleman

now, and I am prepared to state to this House, that at eight o'clock on last Thursday morning, or thereabouts, the gentleman from Kentucky received and receipted for a message addressed to him from Josiah Caldwell, in London, entirely corroborating and substantiating the statements of Thomas A. Scott, which he had just read in the New York papers, and entirely exculpating me from the charges which I am bound to believe from the suppression of that report the gentleman is anxious to fasten upon me.

.....

Mr. HUNTON. I desire, Mr. Speaker, as chairman of the sub-committee to whom allusion has been frequently made in the statement of the gentleman from Maine, to detain the House to make a short statement of the matters to which he has alluded, ..

.....

...every witness who has appeared before the committee, under either resolution, was summoned by the committee without any suggestion from Mr. BLAINE or any of his friends.

Among these witnesses appeared Mr. James Mulligan, of the city of Boston, a gentleman whose character is unimpeached and, according to the testimony, unimpeachable...

.....

... In the course of his examination the first day Mr. Mulligan was testifying very quietly; .. when he happened to mention that he had in his possession certain letters written by Mr. BLAINE to Warren Fisher, jr. .. Mr. BLAINE, .. whispered to Mr. LAWRENCE, the republican member of that committee, "Move an adjournment." It so happened that I heard the suggestion. Mr. LAWRENCE got up with great solemnity on his countenance and said, "Mr. Chairman, I am very sick and I hope the committee will adjourn." ...

Mr. HUNTON. When those letters were mentioned the gentleman became sick, and somebody else sicker. [Laughter.] And the motion to adjourn was made at his suggestion.

.....

... The committee adjourned until the next morning at ten o'clock; and when we met, James Mulligan was put upon the stand again... He said: "Mr. Chairman, before I proceed to answer that question, I desire to make a personal explanation painful to myself."

... Mr. Mulligan was in the barber-shop undergoing the pleasant operation of shaving, or about to undergo it, and Mr. BLAINE fol-

lowed him into the barber-shop and commenced to entreat and earnestly to request that Mulligan would give up those letters which BLAINE had addressed to Warren Fisher. Mulligan declined to do it.

.....

Mr. FRYE. The letters were not read in any barber-shop.

Mr. HUNTON. I will take him out of the barber-shop...

.....

...It was in his room, I believe; but he made this entreaty. The witness said, "with tears in his eyes, almost, if not quite, on his knees;" "if you do not deliver those letters to me, I am ruined and my family disgraced." ...Mr. BLAINE said: "Would you like a political office?" Mulligan replied he did not like politics, and did not care about it. Mr. BLAINE then asked how he would like a foreign consulship? He said he would not like it; and after that BLAINE said: "Let me see the letters to peruse them." The witness objected, but he said finally, upon a pledge of honor from Mr. BLAINE that he would return the letters, they were given him to read. He read them over once or twice, and returned them to the witness. . . In a short time Mr. BLAINE followed him into his room, and this scene occurred between the parties without any witnesses: Mr. BLAINE again endeavored to get possession of the letters. . . The witness says that Mr. BLAINE said: "I want to reread those letters again, and I want to have them for that purpose."

.....

...and the witness said that on a like pledge of honor to return them to him he delivered these letters over a second time to Mr. BLAINE to read and return them; and when Mr. BLAINE had read them and kept them a short time he refused to deliver them. The witness became excited, demanded his letters, and followed Mr. BLAINE into the room of Mr. Atkins on the floor below, and there demanded his letters from Mr. BLAINE; and he not only demanded his letters, but he demanded the private memorandum which the witness himself had made to use on his examination before the committee to refresh his memory. This was taken by Mr. BLAINE, and this also he refused to deliver. . .

202. THE BLAND-ALLISON ACT

The following act, passed February 28, 1878, represented a compromise with the advocates of the restoration of the silver dollar under the free coinage of silver. The free coinage of all silver brought to the mint was avoided, by this act authorizing the Secretary of the Treasury to purchase silver bullion monthly to be coined into silver dollars. President Hayes vetoed the bill but it was passed over his veto.

Statutes at Large of the United States, Vol. 20, p. 25.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be coined, at the several mints of the United States, silver dollars of the weight of four hundred and twelve and a half grains Troy of standard silver, as provided in the act of January eighteenth, eighteen hundred thirty-seven, on which shall be the devices and superscriptions provided by said act; which coins together with all silver dollars heretofore coined by the United States, of like weight and fineness, shall be a legal tender, at their nominal value, for all debts and dues public and private, except where otherwise expressly stipulated in the contract. And the Secretary of the Treasury is authorized and directed to purchase, from time to time, silver bullion, at the market price thereof, not less than two million dollars worth per month, nor more than four million dollars worth per month, and cause the same to be coined monthly, as fast as so purchased, into such dollars; . . . *Provided*, That the amount of money at any one time invested in such silver bullion, exclusive of such resulting coin, shall not exceed five million dollars: *And provided further*, That nothing in this act shall be construed to authorize the payment in silver of certificates of deposit issued under the provisions of section two hundred and fifty-four of the Revised Statutes. . .

203. THE CHINESE EXCLUSION ACT

Inspired by labor agitation against the competition of Chinese labor, Congress, in 1879, had passed a Chinese Exclusion Bill which was vetoed by President Hayes as a violation of our treaty with China. A modification of the Chinese Treaty was negotiated in 1880; under it an exclusion act passed Congress only to be vetoed by President Arthur, April 4, 1882. A new act meeting his objections was passed and received his assent May 6, 1882.

Statutes at Large of the United States, Vol. 22, part 1, pp. 58-61.

May 6, 1882. CHAP. 126. — An act to execute certain treaty stipulations relating to Chinese.

WHEREAS, in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the expiration of ninety days next after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended; and during such suspension it shall not be lawful for any Chinese laborer to come, or, having so come after the expiration of said ninety days, to remain within the United States.

SEC. 2. That the master of any vessel who shall knowingly bring within the United States on such vessel, and land or permit to be landed, any Chinese laborer, from any foreign port or place, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may be also imprisoned for a term not exceeding one year.

SEC. 3. That the two foregoing sections shall not apply to Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of this act, and who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned; nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage to any foreign port or place: *Provided*, That all Chinese laborers brought on such vessel shall depart with the vessel on leaving port.

SEC. 4. That for the purpose of properly identifying Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of this act, and in order to furnish them with the proper evidence of their right to go from and come to the United States of their free will and

accord, as provided by the treaty between the United States and China dated November seventeenth, eighteen hundred and eighty, the collector of customs of the district from which any such Chinese laborer shall depart from the United States shall, in person or by deputy, go on board each vessel having on board any such Chinese laborer and cleared or about to sail from his district for a foreign port, and on such vessel make a list of all such Chinese laborers, which shall be entered in registry-books to be kept for that purpose, in which shall be stated the name, age, occupation, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each of such Chinese laborers, which books shall be safely kept in the custom-house; and every such Chinese laborer so departing from the United States shall be entitled to, and shall receive, free of any charge or cost upon application therefor, from the collector or his deputy, at the time such list is taken, a certificate, signed by the collector or his deputy and attested by his seal of office, in such form as the Secretary of the Treasury shall prescribe, which certificate shall contain a statement of the name, age, occupation, last place of residence, personal description, and facts of identification of the Chinese laborer to whom the certificate is issued, corresponding with the said list and registry in all particulars. . .

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SEC. 6. That in order to the faithful execution of articles one and two of the treaty in this act before mentioned, every Chinese person other than a laborer who may be entitled by said treaty and this act to come within the United States, and who shall be about to come to the United States, shall be identified as so entitled by the Chinese Government in each case, such identity to be evidenced by a certificate issued under the authority of said government, which certificate shall be in the English language or (if not in the English language) accompanied by a translation into English, stating such right to come, and which certificate shall state the name, title, or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, and place of residence in China of the person to whom the certificate is issued and that such person is entitled conformably to the treaty in this act mentioned to come within the United States. Such certificate shall be prima-facie evidence of the fact set forth therein, and shall be produced to the collector of customs, or his deputy, of the port in the district of the United States at which the person named therein shall arrive.

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SEC. 12. That no Chinese person shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate in this act required of Chinese persons seeking to land from a vessel. And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, by direction of the President of the United States, and at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or remain in the United States.

SEC. 13. That this act shall not apply to diplomatic and other officers of the Chinese Government traveling upon the business of that government, whose credentials shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese persons.

SEC. 14. That hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

SEC. 15. That the words "Chinese laborers", whenever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

Approved, May 6, 1882.

204. THE PENDLETON ACT

Approved January 16, 1883, it marks the definite adoption of the civil service principle in the Federal government.

Statutes at Large of the United States, Vol. 22, part 2, pp. 403-407.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to appoint, by and with the advice and consent of the Senate, three persons, not more than two of whom shall be adherents of the same party, as Civil Service Commissioners, and said three commissioners shall constitute the United States Civil Service Commission. . .

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SEC. 2. That it shall be the duty of said commissioners:

FIRST. To aid the President, as he may request, in preparing suitable rules for carrying this act into effect, . .

SECOND. And, among other things, said rules shall provide and declare, as nearly as the conditions of good administration will warrant, as follows:

First, for open, competitive examinations for testing the fitness of applicants for the public service now classified or to be classified hereunder. Such examinations shall be practical in their character, and so far as may be shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed.

Second, that all the offices, places, and employments so arranged or to be arranged in classes shall be filled by selections according to grade from among those graded highest as the results of such competitive examinations.

Third, appointments to the public service aforesaid in the departments at Washington shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained at the last preceding census. . .

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Fifth, that no person in the public service is for that reason under any obligations to contribute to any political fund, or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so.

Sixth, that no person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

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THIRD. Said commission shall, subject to the rules that may be made by the President, make regulations for, and have control of, such examinations, and, through its members or the examiners, it shall supervise and preserve the records of the same; and said commission shall keep minutes of its own proceedings.

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SEC. 3. That said commission is authorized to employ a chief examiner, a part of whose duty it shall be, under its direction, to act with the examining boards, so far as practicable, whether at Washington or elsewhere, and to secure accuracy, uniformity, and justice in all their proceedings, which shall be at all times open to him. . . The commission shall, at Washington, and in one or more places in each State and Territory where examinations are to take place, designate and select a suitable number of persons, not less than three, in the official service

of the United States, residing in said State or Territory, . . to be members of boards of examiners, and may at any time substitute any other person in said service living in such State or Territory in the place of any one so selected . . . and where there are persons to be examined in any State or Territory, examinations shall be held therein at least twice in each year. . .

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SEC. 6. That within sixty days after the passage of this act it shall be the duty of the Secretary of the Treasury, in as near conformity as may be to the classification of certain clerks now existing under the one hundred and sixty-third section of the Revised Statutes, to arrange in classes the several clerks and persons employed by the collector, naval officer, surveyor, and appraisers, or either of them, or being in the public service, at their respective offices in each customs district where the whole number of said clerks and persons shall be all together as many as fifty. And thereafter, from time to time, on the direction of the President, said Secretary shall make the like classification or arrangement of clerks and persons so employed, in connection with any said office or offices, in any other customs district. And, upon like request, and for the purposes of this act, said Secretary shall arrange in one or more of said classes, or of existing classes, any other clerks, agents, or persons employed under his department in any said district not now classified; and every such arrangement and classification upon being made shall be reported to the President.

SECOND. Within said sixty days it shall be the duty of the Postmaster-General, in general conformity to said one hundred and sixty-third section, to separately arrange in classes the several clerks and persons employed, or in the public service, at each post-office, or under any postmaster of the United States, where the whole number of said clerks and persons shall together amount to as many as fifty. And thereafter, from time to time, on the direction of the President, it shall be the duty of the Postmaster-General to arrange in like classes the clerks and persons so employed in the postal service in connection with any other post-office; and every such arrangement and classification upon being made shall be reported to the President.

THIRD. That from time to time said Secretary, the Postmaster-General, and each of the heads of departments mentioned in the one hundred and fifty-eighth section of the Revised Statutes, and each head of an office, shall, on the direction of the President, and for facilitating the execution of this act, respectively revise any then existing classification or arrangement of those in their respective departments

and offices, and shall, for the purposes of the examination herein provided for, include in one or more of such classes, so far as practicable, subordinate places, clerks, and officers in the public service pertaining to their respective departments not before classified for examination.

SEC. 7. That after the expiration of six months from the passage of this act no officer or clerk shall be appointed, and no person shall be employed to enter or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination in conformity herewith. But nothing herein contained shall be construed to take from those honorably discharged from the military or naval service any preference conferred by the seventeen hundred and fifty-fourth section of the Revised Statutes. . .

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SEC. 11. That no Senator, or Representative, or Territorial Delegate of the Congress, or Senator, Representative, or Delegate elect, or any officer or employee of either of said houses, and no executive, judicial, or military, or naval officer of the United States, and no clerk or employee of any department, branch, or bureau of the executive, judicial, or military or naval service of the United States, shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any officer, clerk, or employee of the United States, or any department, branch, or bureau thereof, or from any person receiving any salary or compensation from moneys derived from the Treasury of the United States.

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Approved, January sixteenth, 1883.

205. BIMETALLISM UNDER DIFFICULTIES

The following extract from Cleveland's message of December 8, 1885, states with ability the difficulties with which the Treasury wrestled under the Bland-Allison Act.

Richardson, Messages and Papers of the Presidents, Vol. 8, pp. 342-344.

FIRST ANNUAL MESSAGE.

Washington, December 8, 1885.

To the Congress of the United States:

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Nothing more important than the present condition of our currency and coinage can claim your attention.

Since February, 1878, the Government has, under the compulsory provisions of law, purchased silver bullion and coined the same at the rate of more than \$2,000,000 every month. By this process up to the present date 215,759,431 silver dollars have been coined.

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The desire to utilize the silver product of the country should not lead to a misuse or the perversion of this power.

The necessity for such an addition to the silver currency of the nation as is compelled by the silver-coinage act is negatived by the fact that up to the present time only about 50,000,000 of the silver dollars so coined have actually found their way into circulation, leaving more than 165,000,000 in the possession of the Government, the custody of which has entailed a considerable expense for the construction of vaults for its deposit. Against this latter amount there are outstanding silver certificates amounting to about \$93,000,000.

Every month two millions of gold in the public Treasury are paid out for two millions or more of silver dollars, to be added to the idle mass already accumulated.

If continued long enough, this operation will result in the substitution of silver for all the gold the Government owns applicable to its general purposes. It will not do to rely upon the customs receipts of the Government to make good this drain of gold, because the silver thus coined having been made legal tender for all debts and dues, public and private, at times during the last six months 58 per cent of the receipts for duties has been in silver or silver certificates, while the average within that period has been 20 per cent. The proportion of silver and its certificates received by the Government will probably increase as time goes on, for the reason that the nearer the period approaches when it will be obliged to offer silver in payment of its obligations the greater inducement there will be to hoard gold against depreciation in the value of silver or for the purpose of speculating.

This hoarding of gold has already begun.

When the time comes that gold has been withdrawn from circulation, then will be apparent the difference between the real value of the silver dollar and a dollar in gold, and the two coins will part company. Gold, still the standard of value and necessary in our dealings with other countries, will be at a premium over silver; banks which have substituted gold for the deposits of their customers may pay them with silver bought with such gold, thus making a handsome profit; rich speculators will sell their hoarded gold to their neighbors who need it to liquidate their foreign debts, at a ruinous premium over silver, and the laboring men and women of the land, most defenseless of all, will find that the dollar received for the wage of their toil has sadly shrunk in its purchasing power. It may be said that the latter result will be but temporary, and that ultimately the price of labor will be adjusted to the change; but even if this takes place the wage-worker can not possibly gain, but must inevitably lose, since the price he is compelled to pay for his living will not only be measured in a coin heavily depreciated and fluctuating and uncertain in its value, but this uncertainty in the value of the purchasing medium will be made the pretext for an advance in prices beyond that justified by actual depreciation.

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It will not be disputed that any attempt on the part of the Government to cause the circulation of silver dollars worth 80 cents side by side with gold dollars worth 100 cents, even within the limit that legislation does not run counter to the laws of trade, to be successful must be seconded by the confidence of the people that both coins will retain the same purchasing power and be interchangeable at will. A special effort has been made by the Secretary of the Treasury to increase the amount of our silver coin in circulation; but the fact that a large share of the limited amount thus put out has soon returned to the public Treasury in payment of duties leads to the belief that the people do not now desire to keep it in hand, and this, with the evident disposition to hoard gold, gives rise to the suspicion that there already exists a lack of confidence among the people touching our financial processes. There is certainly not enough silver now in circulation to cause uneasiness, and the whole amount coined and now on hand might after a time be absorbed by the people without apprehension; but it is the ceaseless stream that threatens to overflow the land which causes fear and uncertainty.

What has been thus far submitted upon this subject relates almost entirely to considerations of a home nature, unconnected with the bearing which the policies of other nations have upon the question. But it

is perfectly apparent that a line of action in regard to our currency can not wisely be settled upon or persisted in without considering the attitude on the subject of other countries with whom we maintain intercourse through commerce, trade, and travel. An acknowledgment of this fact is found in the act by virtue of which silver is compulsorily coined. It provides that —

The President shall invite the governments of the countries composing the Latin Union, so called, and of such other European nations as he may deem advisable, to join the United States in a conference to adopt a common ratio between gold and silver for the purpose of establishing internationally the use of bimetallic money and securing fixity of relative value between those metals.

This conference absolutely failed, and a similar fate has awaited all subsequent efforts in the same direction. And still we continue our coinage of silver at a ratio different from that of any other nation. The most vital part of the silver-coinage act remains inoperative and unexecuted, and without an ally or friend we battle upon the silver field in an illogical and losing contest.

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206. THE INTERSTATE COMMERCE COMMISSION

The regulation of interstate rates charged by the railroads was first undertaken by the Federal Government under the following act of February 4, 1887.

Statutes at Large of the United States, Vol. 24, part 2, pp. 379-387.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such

place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however,* That the provisions of this act shall not apply to the transportation of passengers or property; or to the receiving, delivering, storage, or handling of property, wholly within one State, and not shipped to or from a foreign country from or to any State or Territory as aforesaid.

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All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

SEC. 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

SEC. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

SEC. 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however,* That upon application to the Commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the Commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the Commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

SEC. 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement, or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

SEC. 6. That every common carrier subject to the provisions of this act shall print and keep for public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its railroad, as defined by the first section of this act. . .

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And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares, and charges as may at the time be in force.

Every common carrier subject to the provisions of this act shall file with the Commission hereinafter provided for copies of its schedules of rates, fares, and charges which have been established and published

in compliance with the requirements of this section, and shall promptly notify said Commission of all changes made in the same. Every such common carrier shall also file with said Commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. . .

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares, and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated or wherein such offense may be committed . . . and such writ shall issue in the name of the people of the United States, at the relation of the Commissioners appointed under the provisions of this act; and failure to comply with its requirements shall be punishable as and for a contempt; and the said Commissioners, as complainants, may also apply, in any circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several States and Territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several States and Territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

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SEC. 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the Commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; . .

SEC. 10. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, . . shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof

in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense.

SEC. 11. That a Commission is hereby created and established to be known as the Inter-State Commerce Commission, which shall be composed of five Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate. The Commissioners first appointed under this act shall continue in office for the term of two, three, four, five, and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed. Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Not more than three of the Commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said Commissioners shall not engage in any other business, vocation, or employment. No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission.

SEC. 12. That the Commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created; and for the purposes of this act the Commission shall have power to require the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation, and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such

common carrier or other person to appear before said Commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

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SEC. 14. That whenever an investigation shall be made by said Commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the Commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *prima facie* evidence as to each and every fact found.

All reports of investigations made by the Commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of.

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SEC. 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate or refuse or neglect to obey any lawful order or requirement of the Commission in this act named, it shall be the duty of the Commission, and lawful for any company or person interested in such order or requirement, to apply, in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute, in such mode and by such persons

as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the report of said Commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said Commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said Commission, and enjoining obedience to the same; . . . Whenever any such petition shall be filed or presented by the Commission it shall be the duty of the district attorney, under the direction of the Attorney-General of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States. For the purposes of this act, excepting its penal provisions, the circuit courts of the United States shall be deemed to be always in session.

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SEC. 20. That the Commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the Commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefore, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment; the number of employees and the salaries paid each class; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet. Such reports shall also contain such information in relation to rates or regulations concerning fares or freights, or agreements, arrangements, or contracts with other common carriers, as the Commission may require; and the said Commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the Commission it is practicable to

prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

.....

Approved, February 4, 1887.

207. THE SHERMAN ANTI-TRUST LAW

Approved July 2, 1890.

Statutes at Large of the United States, *Vol. 26, part 1, pp. 209-210.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not

exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; ..

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Approved, July 2, 1890.

208. SHERMAN SILVER PURCHASE ACT

The following act of July 14, 1890, represented an additional sop thrown to the advocates of free silver.

Statutes at Large of the United States, Vol. 26, part 1, pp. 289-290.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby directed to purchase, from time to time, silver bullion to the aggregate amount of four million five hundred thousand ounces, or so much thereof as may be offered in each month, at the market price thereof, not exceeding one dollar for three hundred and seventy-one and twenty-five hundredths grains of pure silver, and to issue in payment for such purchases of silver bullion Treasury notes of the United States to be prepared by the Secretary of the Treasury, in such form and of such denominations, not less than one dollar nor more than one thousand dollars, as he may prescribe, and a sum sufficient to carry into effect the provisions of this act is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. That the Treasury notes issued in accordance with the provisions of this act shall be redeemable on demand, in coin, at the Treasury of the United States, .. and when so redeemed may be re-issued; but no greater or less amount of such notes shall be outstanding at any time than the cost of the silver bullion and the standard silver dollars coined therefrom, then held in the Treasury purchased by such notes; and such Treasury notes shall be a legal tender in payment of all debts, public and private, except where otherwise expressly stipulated in the contract, and shall be receivable for customs, taxes, and all public dues, and when so received may be reissued; and such notes, when held by any national banking association, may be counted as a part of its lawful reserve. That upon demand of the holder of any of the Treasury notes herein provided for the Secretary of the Treasury

shall, under such regulations as he may prescribe, redeem such notes in gold or silver coin, at his discretion, it being the established policy of the United States to maintain the two metals on a parity with each other. . .

SEC. 3. That the Secretary of the Treasury shall each month coin two million ounces of the silver bullion purchased under the provisions of this act into standard silver dollars until the first day of July, eighteen hundred and ninety-one, and after that time he shall coin of the silver bullion purchased under the provisions of this act as much as may be necessary to provide for the redemption of the Treasury notes herein provided for, and any gain or seigniorage arising from such coinage shall be accounted for and paid into the Treasury.

.....

SEC. 5. That so much of the act of February twenty-eighth, eighteen hundred and seventy-eight, entitled "An act to authorize the coinage of the standard silver dollar and to restore its legal-tender character," as requires the monthly purchase and coinage of the same into silver dollars of not less than two million dollars, nor more than four million dollars' worth of silver bullion, is hereby repealed.

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Approved, July 14, 1890.

209. THE FARMERS' ALLIANCE

Neither benevolent organizations like the Grange nor attempts on the part of the state and Federal Government to regulate railroad and warehouse conditions effectively, improved the farmers' condition or allayed their discontent. By 1890 the farmers had turned to politics as an organized group. Out of the Farmers' Alliance developed the Populist Party.

H. R. Chamberlain, The Farmers' Alliance, pp. 4-88. New York, 1891.

IT will be in the nature of revelation to most people, even to the farmers themselves, that almost since yesterday about four millions of the yeomanry of America have banded themselves together with a determination to become a united and potent factor in the politics and commercial affairs of the country. The new army struck its first blow on the 4th of November, and its sweeping effects have not yet been recognized. The farmer has not yet been given full credit, .. for

the potency of his influence and vote in the recent campaign. . . He has toppled dominant parties from control in several States; he has made sure of a respectable farmer representation in both Houses of the next Congress; but that is all of less significance than the local revolutions he has wrought in a thousand minor political districts where a change of control has come with all the unexpectedness of an earthquake. . . It happened that the revolt took the form of a tremendous Democratic victory. The measure of Democratic success was as great a surprise to the victors as to the defeated. But the directors of all the branches of the farmers' movement declare that the Democrats will make the greatest mistake of their lives if they interpret the result as their own distinct party triumph.

The average citizen has a vague idea that it is the Farmers' Alliance which has begun to work political miracles in the land. . .

But what is the Farmers' Alliance? Its full title is the National Farmers' Alliance and Industrial Union. The Alliance is really a combination of older organizations. A Farmers' Alliance was started in Texas in 1873, and another in New York about the same year. . . These two organizations associated themselves together under the general laws of Congress . . . and secured an article of incorporation in the District of Columbia . . . and this order completed its consolidation with the National Agricultural Wheel on the first day of October, 1889. At that time the present corporate name of the National Farmers' Alliance and Industrial Union was adopted. This created an organization with a membership variously estimated at from 1,600,000 to 2,500,000. At the national convention of the order, held at Ocala in December, 1890, articles of consolidation were agreed upon by which the Farmers' Mutual Benefit Association, which has 500,000 members in Illinois, Indiana, Iowa, and neighboring States, and the National Colored Farmers' Alliance, which has a membership of nearly 1,200,000 chiefly in the South, will become a part of the great Alliance.

The Alliance is a secret organization, having its secret work in the manner of other semi-social orders. Its membership is not strictly confined to farmers, but it takes in the rural population. Both sexes are admitted to membership, with sixteen as the minimum age. The rules permit the admission of country doctors, preachers, mechanics, and school-teachers. . .

The purposes of the Alliance, as officially declared, are these:

"To labor for the education of the agricultural classes in the science of economic government in a strictly non-partisan spirit. To endorse the motto: 'In things essential, unity; and in all things, charity.' To

develop a better state, mentally, morally, socially, and financially. To create a better understanding for sustaining civil officers in maintaining law and order. To constantly strive to secure entire harmony and good-will among all mankind and brotherly love among ourselves. To suppress personal, local, sectional, and national prejudices, all unhealthy rivalry, and selfish ambition. To assuage the sufferings of a brother or sister, bury the dead, care for the widows, and educate the orphans; to exercise charity toward offenders; to construe words and deeds in their most favorable light, granting honesty of purpose and good intentions to others, and to protect the principles of the Alliance unto death."

...Of the political methods of the Alliance one of its official declarations is:

"Our political methods are strictly non-partisan and must ever remain so, . . All political parties are represented in our ranks, and all are expected to work in their respective parties to secure a just recognition of the rights of the farmer. All questions in political economy will be thoroughly discussed, and when the order can agree on a reform as necessary they will demand it of the government and of every political party, and if the demand goes unheeded they will devise ways to enforce it. . .

.....

The national convention of the Alliance, held at Ocala, Florida, the first week in December, 1890, marked the first great crisis in the history of the new organization. . . It was verily a critical time for the Alliance when its 163 delegates, representing 35 States and Territories, convened at Ocala on the 2d of December.

The third party movement which was enlisting enthusiastic Alliance support in the Northwest was the danger which the conservative leaders most feared. . .

.....

...It began to be whispered about that the pressure which was strongly exerted to secure sweeping modifications of the Sub-Treasury plan was being applied in the interest of the Democratic party in order that it might negotiate for coöperation with the Alliance in 1892. . . These considerations had a most important effect in shaping the action of the delegates on the last day of the session when a platform was finally adopted. Instead of in any way modifying the demands made at St. Louis the previous year, the Alliance adopted a platform even more radical in some of its provisions. These are their demands as finally framed at Ocala:

First — We demand the abolition of national banks. We demand that the Government shall establish sub-treasuries or depositories in the several States which shall loan money direct to the people at a low rate of interest, not to exceed two per cent. per annum on non-perishable farm products, and also upon real estate with proper limitations upon the quantity of land and amount of money. We demand that the amount of the circulating medium be speedily increased to not less than \$50 per capita.

Second — We demand that Congress shall pass such laws as shall effectually prevent the dealing in futures on all agricultural and mechanical productions; preserving a stringent system of procedure in trials such as shall secure the prompt conviction and the imposition of such penalties as shall secure the most perfect compliance with the law.

Third — We condemn the Silver bill recently passed by Congress, and demand in lieu thereof the free and unlimited coinage of silver.

Fourth — We demand the passage of laws prohibiting alien ownership of land, and that Congress take prompt action to devise some plan to obtain all lands now owned by aliens and foreign syndicates, and that all lands now held by railroads and other corporations in excess of such as is actually used and needed by them be reclaimed by the Government and held for actual settlers only.

Fifth — Believing in the doctrine of equal rights to all and special privileges to none, we demand that our national legislation shall be so framed in the future as not to build up one industry at the expense of another, and we further demand a removal of the existing heavy tariff tax from the necessities of life that the poor of our land must have. We further demand a just and equitable system of graduated tax on incomes. We believe that the money of the country should be kept as much as possible in the hands of the people, and hence we demand that all national and State revenues shall be limited to the necessary expenses of the Government economically and honestly administered.

Sixth — We demand the most rigid, honest, and just State and national governmental control and supervision of the means of public communication and transportation, and if this control and supervision does not remove the abuses now existing, we demand Government ownership of such means of communication and transportation.

.....

The convention finally adopted the platform as given by an overwhelming majority...

.....

The remarkable development of the third party movement was the most interesting feature of the doings at Ocala. At the outset it was the intention of the third party advocates to make a hot fight on the floor of the convention for the adoption of an independent political policy by the Alliance itself. The opposition to this course, even by men who sympathized with them in the new movement, led to its abandonment. One potent argument that influenced this decision was to the effect that if a third party should be organized under the direct auspices of the Alliance, and should meet defeat, the disaster might involve the whole organization in ruin. If, however, the movement should be undertaken nominally under other auspices, but with the full support of the Alliance, its failure might not drag down the latter order.

The instrument was right at hand which the situation demanded. A new organization, about which Eastern people have yet heard little, has been spreading like wildfire in the West during the fall. It is the Citizens' Alliance. Its membership is less restricted, and its objects are much the same as those of the Farmers' League, which has begun to take an active part in politics in the New England States. It is merely a political combination, based upon the platform of the Farmers' Alliance. Any man in an honest occupation can join the Citizens' Alliance by pledging his support to that platform. The order started in Kansas a little while ago, and already it has a big membership in that State, and in Nebraska and Iowa. This body is designed to become the political weapon of the Farmers' Alliance. . .

.....

The Citizens' Alliance will be the most prominent factor in the third party movement. . .

.....

While the third party movement failed to develop a well defined policy, it cannot be denied that it received a tremendous impulse at Ocala. Before the convention met it was not recognized as of more than local and temporary significance in two or three States. The Ocala convocation raised it into the proportions of an impending political revolution. It was there demonstrated that the uprising is spontaneous and not artificial. . .

.....

The most important factor in the farmers' movement in the Northeast has been the newly-born National Farmers' League. . . This is its own specification of its composition and objects:

The Farmers' League is a non-secret, independent, non-partisan organization, in harmony with the Alliance, Wheel, Farmers' Union, Grange, and kindred associations, agricultural societies, farmers' clubs, and similar organizations. But the League goes a step further. Its object is the farmers' political welfare. The work of the League is directed toward securing a just representation and treatment of the agricultural interests in Congress and in the Legislatures, and due recognition of farmers in all public affairs, without conflicting with the best interests of the entire people. It consists of a National League and of State leagues, with county and town leagues. The National League has general supervision of the affairs of the Farmers' League and the work of organization, and attends specially to the farmers' interests in Congress. The State leagues, as soon as organized, push the work of organization in their respective States, and attend to the farmers' special interests in the Legislature. The County League attends to the farmers' interests in county matters, and to affairs in Senatorial and Representative districts. The town leagues furnish the delegates who constitute the county leagues, and attend to the farmers' interests in local districts, and in each election precinct.

It was the League which shelved Gov. Bulkeley of Connecticut. It was the League that was largely responsible for the revolution in Massachusetts. It was the League which alone wrought the political miracle of transferring the Massachusetts Senate from a body four-fifths Republican to one which is evenly balanced between the parties. The League members were foremost in the revolt against Quay in Pennsylvania; and in other Eastern States they everywhere exercised an active independence at the polls.

.....

The headquarters of the League are at Springfield, in the office of Secretary Myrick, who is the founder of the organization. . . . Discussing the purposes of the League, and the political uprising among the farmers, Mr. Myrick says:

"The country has no conception yet of the extent and significance of this movement. Farmers have always been told that they could not successfully combine. They have just found out that they can organize as effectively as any other class, and they are burning for the opportunity to assert their power in unison. . . . We are working in thorough harmony with both the Alliance and the Grange. Half our members probably are also members of one or the other of these organizations. We simply say to these orders: The League will do the dirty work of politics for you — work that is dirty only because dirty men have been

doing it. We aim to restore the farmer to his former political prestige as the balance-wheel of the nation. . .

"The League will endeavor to spur the farmer to the performance of every political duty. It urges him, first of all, to attend the primaries of his party. Members of local and State Leagues are advised to select first the object on which there is the most unanimous demand, and spare no effort to accomplish it. . . Agree upon such a man for a Republican candidate, and another for the Democratic candidate. Then let the farmers go to the caucuses or primaries of their respective parties, getting out a big enough attendance to control the same and nominate their man. If the farmers succeed in securing their nominee in both parties, then let the election be conducted on party lines. But if only one farmer candidate secures a regular nomination, the members of the League should unite on him and elect him. . .

The farmers' movement is by no means exclusively political in its scope and significance. . .

.....

. . . It means the rapid accomplishment of a purpose, which all the national farmers' organizations have been approaching, and which has but recently been stated distinctly — the federation of the farmers of America in a gigantic organization, to be known, perhaps, as the American Association of Agricultural Organizations. The purposes of this movement are social, economical, and educational, as well as political. . . Even the most conservative of the farmers' organs, the *American Agriculturist*, endorses the movement. The great scope and utility of such a combination is thus set forth by the *Agriculturist*:

The Grange or Patrons of Husbandry, the Farmers' Alliance, with its northern and southern organizations, the Farmers' Mutual Benefit Association, the Patrons of Industry, not to mention several lesser societies, are each and all striving to advance the farmers' condition, socially, educationally, and financially. The Farmers' League supplements these orders by carrying the farmers' wants into actual politics — a field not usually touched upon by the other organizations, several notable instances excepted.

.....

Let us imitate the example of the American Association for the Advancement of Science, one of the simplest but most powerful levers for promoting scientific work. Form the American Association of Agricultural Organizations. Let its active board be composed of executive officers of the various national orders among farmers, including the American Association of Agricultural Colleges and Experiment Sta-

tions. This representative body could devise ways for general co-operation on all matters upon which the various orders could agree. Measures upon which it was impossible to harmonize the respective bodies would be left to them. Thus the individuality of the various orders would not be interfered with; they would all work together on subjects of common interest, each continuing its work in special lines in its own way.

.....

The farmers' uprising is yet crude and unshapen. It has genuine evils to combat. It has honesty of purpose to guide it. Its leaders are sincere and unselfish. That it will take a prominent part in shaping the immediate destinies of the American people, no one who has thoroughly investigated the movement can doubt. I venture to prophesy that its influence will be to the nation a blessing and not a curse.

210. THE CONSERVATION ACT

Approved March 3, 1891, the act marks the development of sentiment against the exploitation of natural resources which was threatening to deprive further generations of essential raw materials.

Statutes at Large of the United States, Vol. 26, part 2, 1095-

1103

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ..

.....

SEC. 14. That none of the provisions... of this act shall be so construed as to warrant the sale of any lands belonging to the United States which shall contain coal or the precious metals, or any town site, or which shall be occupied by the United States for public purposes, or which shall be reserved for such purposes, ..

.....

SEC. 24. That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof.

Approved, March 3, 1891.

211. THE VENEZUELA QUESTION

1. *In Cleveland's message of December 9, 1891, the following extract serves as introduction to the critical phase of the Venezuela boundary controversy with Great Britain.*

Richardson, Messages and Papers of the Presidents, Vol. 9, pp. 180-181.

2. *OLNEY'S LETTER ON VENEZUELA. The following letter from the American Secretary of State to our Minister at Great Britain in connection with the Venezuela Question, states a very interesting extension of the Monroe Doctrine.*

Foreign Relations of the United States, 1895, part 1, pp. 545-562.

3. *LORD SALISBURY'S REPLY. Lord Salisbury's rejoinder to Olney's note, November 26, 1895.*

Foreign Relations of the United States, 1895, part 1, pp. 563-567.

4. *CLEVELAND'S MESSAGE ON VENEZUELA, DECEMBER 17, 1895. The following message on the part of President Cleveland brought the Venezuela Question to a crisis. The matter ended by Great Britain's concession of arbitration which, in the end, practically confirmed her claims.*

Richardson, Messages and Papers of the Presidents, Vol. 9, pp. 655-658.

EXECUTIVE MANSION, December 9, 1891.

.....

I should have been glad to announce some favorable disposition of the boundary dispute between Great Britain and Venezuela touching the western frontier of British Guiana, but the friendly efforts of the United States in that direction have thus far been unavailing. This Government will continue to express its concern at any appearance of foreign encroachment on territories long under the administrative control of American States. The determination of a disputed boundary is easily attainable by amicable arbitration where the rights of the respective parties rest, as here, on historic facts readily ascertainable...

Mr. Olney to Mr. Bayard.

DEPARTMENT OF STATE,

Washington, July 20, 1895.

His Excellency THOMAS F. BAYARD,

Etc., etc., etc., London.

SIR: I am directed by the President to communicate to you his views upon a subject to which he has given much anxious thought and respecting which he has not reached a conclusion without a lively sense of its great importance as well as of the serious responsibility involved in any action now to be taken.

It is not proposed, and for present purposes is not necessary, to enter into any detailed account of the controversy between Great Britain and Venezuela respecting the western frontier of the colony of British Guiana. . . The claims of both parties, it must be conceded, are of a somewhat indefinite nature. On the one hand Venezuela, in every constitution of government since she became an independent State, has declared her territorial limits to be those of the Captaincy General of Venezuela in 1810. Yet, out of "moderation and prudence," it is said, she has contented herself with claiming the Essequibo line—the line of the Essequibo River, that is—to be the true boundary between Venezuela and British Guiana. On the other hand, at least an equal degree of indefiniteness distinguishes the claim of Great Britain.

.....

To the territorial controversy between Great Britain and the Republic of Venezuela, . . the United States has not been and, indeed, in view of its traditional policy, could not be indifferent. . .

.....

. . . Venezuela has repeatedly brought the controversy to the notice of the United States, . . and has not ceased to solicit the services and support of the United States in aid of its final adjustment. These appeals have not been received with indifference and our Ambassador to Great Britain has been uniformly instructed to exert all his influence in the direction of the re-establishment of diplomatic relations between Great Britain and Venezuela and in favor of arbitration of the boundary controversy. . .

.....

The important features of the existing situation, as shown by the foregoing recital, may be briefly stated.

1. The title to territory of indefinite but confessedly very large

extent is in dispute between Great Britain on the one hand and the South American Republic of Venezuela on the other.

2. The disparity in the strength of the claimants is such that Venezuela can hope to establish her claim only through peaceful methods. . .

.....

5. Great Britain, however, has always and continuously refused to arbitrate, except upon the condition of a renunciation of a large part of the Venezuelan claim and of a concession to herself of a large share of the territory in controversy.

6. By the frequent interposition of its good offices at the instance of Venezuela, by constantly urging and promoting the restoration of diplomatic relations between the two countries, by pressing for arbitration of the disputed boundary, by offering to act as arbitrator, by expressing its grave concern whenever new alleged instances of British aggression upon Venezuelan territory have been brought to its notice, the Government of the United States has made it clear to Great Britain and to the world that the controversy is one in which both its honor and its interests are involved and the continuance of which it can not regard with indifference.

.....

... The Monroe administration... did not hesitate to accept and apply the logic of the Farewell Address by declaring in effect that American non-intervention in European affairs necessarily implied and meant European non-intervention in American affairs. . .

.....

The Monroe administration, however, did not content itself with formulating a correct rule for the regulation of the relations between Europe and America. It aimed at also securing the practical benefits to result from the application of the rule. Hence the message just quoted declared that the American continents were fully occupied and were not the subjects for future colonization by European powers. To this spirit and this purpose, also, are to be attributed the passages of the same message which treat any infringement of the rule against interference in American affairs on the part of the powers of Europe as an act of unfriendliness to the United States. . .

... We are now concerned, . . only with that other practical application of the Monroe doctrine the disregard of which by an European power is to be deemed an act of unfriendliness towards the United States. . . The rule in question has but a single purpose and object. It

is that no European power or combination of European powers shall forcibly deprive an American state of the right and power of self-government and of shaping for itself its own political fortunes and destinies.

That the rule thus defined has been the accepted public law of this country ever since its promulgation cannot fairly be denied. . .

.....

Is it true, then, that the safety and welfare of the United States are so concerned with the maintenance of the independence of every American state as against any European power as to justify and require the interposition of the United States whenever that independence is endangered? The question can be candidly answered in but one way. The states of America, South as well as North, by geographical proximity, by natural sympathy, by similarity of governmental constitutions, are friends and allies, commercially and politically, of the United States. . . The people of the United States have a vital interest in the cause of popular self-government. They have secured the right for themselves and their posterity at the cost of infinite blood and treasure. . . It is in that view more than in any other that they believe it not to be tolerated that the political control of an American state shall be forcibly assumed by an European power.

. . . To-day the United States is practically sovereign on this continent, and its fiat is law upon the subjects to which it confines its interposition. Why? It is not because of the pure friendship or good will felt for it. It is not simply by reason of its high character as a civilized state, nor because wisdom and justice and equity are the invariable characteristics of the dealings of the United States. It is because, in addition to all other grounds, its infinite resources combined with its isolated position render it master of the situation and practically invulnerable as against any or all other powers.

.....

. . . It is not admitted, however, and therefore cannot be assumed, that Great Britain is in fact usurping dominion over Venezuelan territory. While Venezuela charges such usurpation, Great Britain denies it, and the United States, until the merits are authoritatively ascertained, can take sides with neither. But while this is so — while the United States may not, under existing circumstances at least, take upon itself to say which of the two parties is right and which wrong — it is certainly within its right to demand that the truth shall be ascertained. . .

.....

You are instructed, therefore, to present the foregoing views to Lord Salisbury by reading to him this communication (leaving with him a copy should he so desire), and to reinforce them by such pertinent considerations as will doubtless occur to you. They call for a definite decision upon the point whether Great Britain will consent or will decline to submit the Venezuelan boundary question in its entirety to impartial arbitration. It is the earnest hope of the President that the conclusion will be on the side of arbitration, and that Great Britain will add one more to the conspicuous precedents she has already furnished in favor of that wise and just mode of adjusting international disputes. If he is to be disappointed in that hope, however — a result not to be anticipated and in his judgment calculated to greatly embarrass the future relations between this country and Great Britain — it is his wish to be made acquainted with the fact at such early date as will enable him to lay the whole subject before Congress in his next annual message.

I am, sir, your obedient servant,
RICHARD OLNEY.

Lord Salisbury to Sir Julian Pauncefote.

FOREIGN OFFICE,
November 26, 1895.

SIR, ..

... I take a very different view from Mr. Olney of various matters upon which he touches in that part of the despatch; but I will defer for the present all observations upon it, ..

The latter part however of the despatch, turning from the question of the frontiers of Venezuela, proceeds to deal with principles of a far wider character, and to advance doctrines of international law which are of considerable interest to all the nations whose dominions include any portion of the western hemisphere.

The contentions set forth by Mr. Olney in this part of his despatch are represented by him as being an application of the political maxims which are well known in American discussion under the name of the Monroe doctrine. As far as I am aware, this doctrine has never been before advanced on behalf of the United States in any written communication addressed to the Government of another nation; but it has been generally adopted and assumed as true by many eminent writers and politicians in the United States. . .

.....

The dangers which were apprehended by President Monroe have no relation to the state of things in which we live at the present day. There is no danger of any Holy Alliance imposing its system upon any portion of the American Continent, and there is no danger of any European State treating any part of the American Continent as a fit object for European colonization... Great Britain is imposing no "system" upon Venezuela, and is not concerning herself in any way with the nature of the political institutions under which the Venezuelans may prefer to live. But the British Empire and the Republic of Venezuela are neighbours, and they have differed for some time past, and continue to differ, as to the line by which their dominions are separated. It is a controversy with which the United States have no apparent practical concern... It is simply the determination of the frontier of a British possession which belonged to the Throne of England long before the Republic of Venezuela came into existence... The Government of the United States do not say that Great Britain, or that Venezuela, is in the right in the matters that are in issue. But they lay down that the doctrine of President Monroe, when he opposed the imposition of European systems, or the renewal of European colonization, confers upon them the right of demanding that when a European Power has a frontier difference with a South American community, the European Power shall consent to refer that controversy to arbitration; and Mr. Olney states that unless Her Majesty's Government accede to this demand, it will "greatly embarrass the future relations between Great Britain and the United States."

.....

I will not now enter into a discussion of the merits of this method of terminating international differences. It has proved itself valuable in many cases; but it is not free from defects, which often operate as a serious drawback on its value. It is not always easy to find an Arbitrator who is competent, and who, at the same time, is wholly free from bias; and the task of insuring compliance with the Award when it is made is not exempt from difficulty...

In the remarks which I have made, I have argued on the theory that the Monroe doctrine in itself is sound. I must not, however, be understood as expressing any acceptance of it on the part of Her Majesty's Government. It must always be mentioned with respect, on account of the distinguished statesman to whom it is due, and the great nation who have generally adopted it. But international law is founded on the general consent of nations; and no statesman, however eminent, and no nation, however powerful, are competent to insert into the code of

international law a novel principle which was never recognized before, and which has not since been accepted by the Government of any other country. The United States have a right, like any other nation, to interpose in any controversy by which their own interests are affected; and they are the judge whether those interests are touched, and in what measure they should be sustained. But their rights are in no way strengthened or extended by the fact that the controversy affects some territory which is called American. . .

The Government of the United States is not entitled to affirm as a universal proposition, with reference to a number of independent States for whose conduct it assumes no responsibility, that its interests are necessarily concerned in whatever may befall those States simply because they are situated in the Western Hemisphere. It may well be that the interests of the United States are affected by something that happens to Chile or to Peru, and that that circumstance may give them the right of interference; but such a contingency may equally happen in the case of China or Japan, and the right of interference is not more extensive or more assured in the one case than in the other.

.....

... This controversy has undoubtedly been made more difficult by the inconsiderate action of the Venezuelan Government in breaking off relations with Her Majesty's Government, and its settlement has been correspondingly delayed; but Her Majesty's Government have not surrendered the hope that it will be adjusted by a reasonable arrangement at an early date.

I request that you will read the substance of the above despatch to Mr. Olney, and leave him a copy if he desires it.

EXECUTIVE MANSION, *December 17, 1895.*

To the Congress:

In my annual message addressed to the Congress on the 3d instant I called attention to the pending boundary controversy between Great Britain and the Republic of Venezuela and recited the substance of a representation made by this Government to Her Britannic Majesty's Government suggesting reasons why such dispute should be submitted to arbitration for settlement and inquiring whether it would be so submitted.

.....

It will be seen from the correspondence herewith submitted that this proposition has been declined by the British Government upon

grounds which in the circumstances seem to me to be far from satisfactory...

The course to be pursued by this Government in view of the present condition does not appear to admit of serious doubt. Having labored faithfully for many years to induce Great Britain to submit this dispute to impartial arbitration, and having been now finally apprised of her refusal to do so, nothing remains but to accept the situation, to recognize its plain requirements, and deal with it accordingly...

... the dispute has reached such a stage as to make it now incumbent upon the United States to take measures to determine with sufficient certainty for its justification what is the true divisional line between the Republic of Venezuela and British Guiana...

In order that such an examination should be prosecuted in a thorough and satisfactory manner, I suggest that the Congress make an adequate appropriation for the expenses of a commission, to be appointed by the Executive, who shall make the necessary investigation and report upon the matter with the least possible delay. When such report is made and accepted it will, in my opinion, be the duty of the United States to resist by every means in its power, as a willful aggression upon its rights and interests, the appropriation by Great Britain of any lands or the exercise of governmental jurisdiction over any territory which after investigation we have determined of right belongs to Venezuela.

In making these recommendations I am fully alive to the responsibility incurred and keenly realize all the consequences that may follow.

I am, nevertheless, firm in my conviction that while it is a grievous thing to contemplate the two great English-speaking peoples of the world as being otherwise than friendly competitors in the onward march of civilization and strenuous and worthy rivals in all the arts of peace, there is no calamity which a great nation can invite which equals that which follows a supine submission to wrong and injustice and the consequent loss of national self-respect and honor, beneath which are shielded and defended a people's safety and greatness.

GROVER CLEVELAND.

212. THE REPEAL OF THE SHERMAN SILVER PURCHASE ACT

The Sherman Silver Purchase Act in its operation came close to draining the Treasury of its gold reserve, despite its repeated replenishment by means of bond issues. The redemption in gold of the Treasury notes issued under the Act of 1890 became an increasingly heavy strain; and if ever they were redeemed in silver the country would auto-

matically go on a silver basis. The repeal of the Sherman Act, November 1, 1893, in the end saved the situation.

Statutes at Large of the United States, Vol. 28, Public Laws, p. 4.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the act . . . entitled "An act directing the purchase of silver bullion and issue of Treasury notes thereon, and for other purposes," as directs the Secretary of the Treasury to purchase from time to time silver bullion to the aggregate amount of four million five hundred thousand ounces . . . and to issue in payment for such purchases Treasury notes of the United States, be, and the same is hereby, repealed. And it is hereby declared to be the policy of the United States to continue the use of both gold and silver as standard money, and to coin both gold and silver into money of equal intrinsic and exchangeable value, such equality to be secured through international agreement, or by such safeguards of legislation as will insure the maintenance of the parity in value of the coins of the two metals, . .

Approved, November 1, 1893.

213. REPUBLICAN PLATFORM OF 1896

The following are the planks on the tariff and currency question adopted by the Republican Convention at St. Louis on June 17, 1896. Notice the equivocal position on the money question. The Democratic advocacy of free silver forced the Republicans to take a more decisive stand in the campaign.

Republican Campaign Text Book, pp. 251-254. Washington, 1896.

TARIFF.

WE renew and emphasize our allegiance to the policy of protection as the bulwark of American industrial independence and the foundation of American development and prosperity. This true American policy taxes foreign products and encourages home industry; it puts the burden of revenue on foreign goods; it secures the American market for the American producer; it upholds the American standard of wages for the American workingman; it puts the factory by the side of the farm, and makes the American farmer less dependent on foreign demand and price; it diffuses general thrift, and founds the strength

of all on the strength of each. In its reasonable application it is just, fair, and impartial; equally opposed to foreign control and domestic monopoly, to sectional discrimination, and individual favoritism.

We denounce the present Democratic tariff as sectional, injurious to the public credit, and destructive to business enterprise. We demand such an equitable tariff on foreign imports which come into competition with American products as will not only furnish adequate revenue for the necessary expenses of the Government, but will protect American labor from degradation to the wage level of other lands. We are not pledged to any particular schedules. The question of rates is a practical question, to be governed by the conditions of the time and of production; the ruling and uncompromising principle is the protection and development of American labor and industry. The country demands a right settlement, and then it wants rest.

RECIPROCITY.

We believe the repeal of the reciprocity arrangements negotiated by the last Republican Administration was a national calamity, and we demand their renewal and extension on such terms as will equalize our trade with other nations, remove the restrictions which now obstruct the sale of American products in the ports of other countries, and secure enlarged markets for the products of our farms, forests, and factories.

.....

FINANCE.

The Republican party is unreservedly for sound money. It caused the enactment of the law providing for the resumption of specie payments in 1879; since then every dollar has been as good as gold.

We are unalterably opposed to every measure calculated to debase our currency or impair the credit of our country. We are, therefore, opposed to the free coinage of silver except by international agreement with the leading commercial nations of the world, which we pledge ourselves to promote, and until such agreement can be obtained the existing gold standard must be preserved. All our silver and paper currency must be maintained at parity with gold, and we favor all measures designed to maintain inviolably the obligations of the United States and all our money, whether coin or paper, at the present standard, the standard of the most enlightened nations of the earth.

214. DEMOCRATIC PLATFORM OF 1896

The following are the planks on the tariff and money questions from the platform adopted by the Democratic convention at Chicago, July 8, 1896.

Republican Campaign Text Book, pp. 243-245. Washington, 1896.

THE MONEY QUESTION.

RECOGNIZING that the money system is paramount to all others at this time, we invite attention to the fact that the Federal Constitution names silver and gold together as the money metals of the United States, and that the first coinage law passed by Congress under the Constitution made the silver dollar the monetary unit, and admitted gold to free coinage at a ratio based upon the silver-dollar unit.

We declare that the act of 1873 demonetizing silver without the knowledge or approval of the American people has resulted in the appreciation of gold and a corresponding fall in the prices of commodities produced by the people; a heavy increase in the burden of taxation and of all debts, public and private; the enrichment of the money-lending class at home and abroad; prostration of industry and impoverishment of the people.

We are unalterably opposed to gold monometallism, which has locked fast the prosperity of an industrial people in the paralysis of hard times. Gold monometallism is a British policy, and its adoption has brought other nations into financial servitude to London. It is not only un-American but anti-American, and it can be fastened on the United States only by the stifling of that spirit and love of liberty which proclaimed our political independence in 1776 and won it in the war of the Revolution.

FREE SILVER.

We demand the free and unlimited coinage of both gold and silver at the present legal ratio of 16 to 1, without waiting for the aid or consent of any other nation. We demand that the standard silver dollar shall be a full legal tender, equally with gold, for all debts, public and private, and we favor such legislation as will prevent for the future the demonetization of any kind of legal-tender money by private contract.

We are opposed to the policy and practice of surrendering to the

holders of the obligations of the United States the option reserved by law to the Government of redeeming such obligations in either silver coin or gold coin.

BOND ISSUES.

We are opposed to the issuing of interest-bearing bonds of the United States in time of peace, and condemn the trafficking with banking syndicates which, in exchange for bonds and at an enormous profit to themselves, supply the Federal Treasury with gold to maintain the policy of gold monometallism.

Congress alone has the power to coin and issue money, and President Jackson declared that this power could not be delegated to corporations or individuals. We therefore demand that the power to issue notes to circulate as money be taken from the national banks, and that all paper money shall be issued directly by the Treasury Department, be redeemable in coin, and receivable for all debts, public and private.

TARIFF FOR REVENUE.

We hold that the tariff duties should be levied for purposes of revenue, such duties to be so adjusted as to operate equally throughout the country and not discriminate between class or section, and that taxation should be limited by the needs of the Government honestly and economically administered. We denounce, as disturbing to business, the Republican threat to restore the McKinley law, which has been twice condemned by the people in national elections, and which, enacted under the false plea of protection to home industry, proved a prolific breeder of trusts and monopolies, enriched the few at the expense of the many, restricted trade, and deprived the producers of the great American staples of access to their natural markets. Until the money question is settled we are opposed to any agitation for further changes in our tariff laws, except such as are necessary to make the deficit in revenue caused by the adverse decision of the Supreme Court on the income tax.

215. THE POPULIST PLATFORM OF 1896

The Populist Party sprang to national importance in 1892 with enough voters from the old parties to insure a Democratic triumph in the nation; it represented the great party of dissatisfaction and unrest among the working classes and the farmers of the West from 1892 to 1896. In 1896 they accepted the leadership of Bryan and practically

affiliated with the Democratic party in its radical pursuit of free silver. Note how many of the demands of the Populists in 1896 have since been enacted into law.

Republican Campaign Text Book, pp. 248-251. Washington, 1896.

THE People's Party, assembled in National Convention, reaffirms its allegiance to the principles declared by the founders of the Republic, and also to the fundamental principles of just government as enunciated in the platform of the party in 1892.

We recognize that through the connivance of the present and preceding Administrations the country has reached a crisis in its national life, as predicted in our declaration four years ago, and that prompt and patriotic action is the supreme duty of the hour.

We realize that, while we have political independence, our financial and industrial independence is yet to be attained by restoring to our country the constitutional control and exercise of the functions necessary to a people's government, which functions have been basely surrendered by our public servants to corporate monopolies. The influence of European money changers has been more potent in shaping legislation than the voice of the American people. Executive power and patronage have been used to corrupt our legislatures and defeat the will of the people, and plutocracy has been enthroned upon the ruins of democracy.

To restore the government intended by the fathers and for the welfare and prosperity of this and future generations, we demand the establishment of an economic and financial system which shall make us masters of our own affairs and independent of European control, by the adoption of the following declarations of principles:

AS TO MONEY, BONDS, AND INCOME TAX.

1. We demand a national money, safe and sound, issued by the General Government only, without the intervention of banks of issue, to be a full legal tender for all debts, public and private, and a just, equitable, and efficient means of distribution direct to the people and through the lawful disbursements of the Government.

2. We demand the free and unrestricted coinage of silver and gold at the present legal ratio of 16 to 1, without waiting for the consent of foreign nations.

3. We demand that the volume of circulating medium be speedily increased to an amount sufficient to meet the demands of the business

population of this country and to restore the just level of prices of labor and production.

4. We denounce the sale of bonds and the increase of the public interest-bearing bond debt made by the present Administration as unnecessary and without authority of law, and that no more bonds be issued except by specific act of Congress.

5. We demand such legal legislation as will prevent the demonetization of the lawful money of the United States by private contract.

6. We demand that the Government on payment of its obligations shall use its option as to the kind of lawful money in which they are to be paid, and we denounce the present and preceding Administrations for surrendering this option to the holders of Government obligations.

7. We demand a graduated income tax, to the end that aggregated wealth shall bear its just proportion of taxation, and we denounce the recent decision of the Supreme Court relative to the income-tax law as a misinterpretation of the Constitution and an invasion of the rightful powers of Congress over the subject of taxation.

8. We demand that postal savings banks be established by the Government for the safe deposit of the savings of the people and to facilitate exchange.

GOVERNMENT OWNERSHIP OF RAILROADS AND TELEGRAPH.

1. Transportation being a means of exchange and a public necessity, the Government should own and operate the railroads in the interest of the people and on non-partisan basis, to the end that all may be accorded the same treatment in transportation, and that the tyranny and political power now exercised by the great railroad corporations, which result in the impairment if not the destruction of the political rights and personal liberties of the citizen, may be destroyed. Such ownership is to be accomplished gradually, in a manner consistent with sound public policy.

2. The interest of the United States in the public highways built with public moneys and the proceeds of extensive grants of land to the Pacific railroads should never be alienated, mortgaged, or sold, but guarded and protected for the general welfare as provided by the laws organizing such railroads. The foreclosing of existing liens of the United States on these roads should at once follow default in the payment of the debt of the companies, and at the foreclosure sales of said roads the Government shall purchase the same if it becomes necessary to protect its interests therein, or if they can be purchased at a

reasonable price; and the Government shall operate said railroads as public highways for the benefit of the whole and not in the interest of the few, under suitable provisions for protection of life and property, giving to all transportation interests and privileges and equal rates for fares and freight.

3. We denounce the present infamous schemes for refunding those debts and demand that the laws now applicable thereto be executed and administered according to their true intent and spirit.

4. The telegraph, like the post-office system, being a necessity for the transmission of news, should be owned and operated by the Government in the interest of the people.

LAND, HOMES, AND PACIFIC RAILROAD GRANTS.

1. The true policy demands that the national and State legislation shall be such as will ultimately enable every prudent and industrious citizen to secure a home, and therefore the land should not be monopolized for speculative purposes.

All lands now held by railroads and other corporations in excess of their actual needs should by lawful means be reclaimed by the Government and held for actual settlers only, and private land monopoly, as well as alien ownership, should be prohibited.

2. We condemn the frauds by which the land grant to the Pacific Railroad Companies have, through the connivance of the Interior Department, robbed multitudes of bona fide settlers of their homes and miners of their claims, and we demand legislation by Congress which will enforce the exemption of mineral land from such grants after as well as before patent.

3. We demand that bona fide settlers on all public lands be granted free homes, as provided in the national homestead law, and that no exception be made in the case of Indian reservations when opened for settlement, and that all lands not now patented come under this demand.

DIRECT LEGISLATION AND GENERAL PLANKS.

We favor a system of direct legislation through the initiative and referendum under proper constitutional safeguards.

We demand the election of President, Vice-President, and United States Senators by a direct vote of the people.

We tender to the patriotic people of Cuba our deepest sympathy in their heroic struggle for political freedom and independence, and we

believe the time has come when the United States, the great Republic of the world, should recognize that Cuba is and of right ought to be a free and independent state.

We favor home rule in the Territories and the District of Columbia and the early admission of the Territories as States.

All public salaries should be made to correspond to the price of labor and its products.

In times of great industrial depression idle labor should be employed on public works as far as practicable.

The arbitrary course of the courts in assuming to imprison citizens for indirect contempt and ruling by injunction should be prevented by proper legislation.

We favor just pensions for our disabled Union soldiers.

Believing that the elective franchise and untrammelled ballot are essential to a government of, for, and by the people, the People's Party condemn the wholesale system of disfranchisement adopted in some States as unrepugnant and undemocratic, and we declare it to be the duty of the several State Legislatures to take such action as will secure a full, free, and fair ballot and an honest count.

FINANCIAL QUESTION "THE PRESSING ISSUE."

While the foregoing propositions constitute the platform upon which our party stands, and for the vindication of which its organization will be maintained, we recognize that the great and pressing issue of the pending campaign, upon which the present Presidential election will turn, is the financial question, and upon this great and specific issue between the parties we cordially invite the aid and co-operation of all organizations and citizens agreeing with us upon this vital question.

216. THE DE LOME LETTER

One of the preliminaries of the Spanish-American War was the enforced resignation of the Spanish Minister to the United States. The papers relating to the so-called De Lome letter follow.

Foreign Relations of the United States, 1898, pp. 1007-1017.
Washington, 1901.

[Translation of letter written by Señor Don Enrique Dupuy de Lome to Señor Don José Canalejas. Undated, but from internal evidence probably written about the middle of December, 1897.]

LEGATION OF SPAIN, *Washington.*

His Excellency Don JOSÉ CANALEJAS.

MY DISTINGUISHED AND DEAR FRIEND: You have no reason to ask my excuses for not having written to me. I ought also to have written to you, but I have put off doing so because overwhelmed with work and nous sommes quittes.

The situation here remains the same. Everything depends on the political and military outcome in Cuba...

.....

The message has been a disillusionment to the insurgents, who expected something different; but I regard it as bad (for us).

Besides the ingrained and inevitable bluntness (groseria) with which is repeated all that the press and public opinion in Spain have said about Weyler, it once more shows what McKinley is, weak and a bidder for the admiration of the crowd, besides being a would-be politician (politicastró) who tries to leave a door open behind himself while keeping on good terms with the jingoes of his party.

Nevertheless, whether the practical results of it [the message] are to be injurious and adverse depends only upon ourselves.

I am entirely of your opinions; without a military end of the matter nothing will be accomplished in Cuba, and without a military and political settlement there will always be the danger of encouragement being given to the insurgents by a part of the public opinion if not by the Government.

.....

It would be very advantageous to take up, even if only for effect, the question of commercial relations, and to have a man of some prominence sent hither in order that I may make use of him here to carry on a propaganda among the Senators and others in opposition to the junta and to try to win over the refugees.

.....

Ever your attached friend and servant,

ENRIQUE DUPUY DE LÔME.

Mr. Day to Mr. Woodford.

[Telegram.]

DEPARTMENT OF STATE,

Washington, February 9, 1898.

There has appeared in the public prints a letter, addressed early in December last by the Spanish minister to Mr. Canalejas, and which the minister admits was written by him. It contains expressions concerning the President of the United States of such character as to end the minister's utility as a medium for frank and sincere intercourse between this country and Spain. You are, therefore, instructed to at once say to the minister of state that the immediate recall of the minister is expected by the President.

DAY, *Acting.*

.....

Señor Gullon to Mr. Woodford.

No. 13.]

MINISTRY OF STATE,

Palace, February 15, 1898.

EXCELLENCY:

MY DEAR SIR:..

After your excellency read to me the telegram transmitted by your Government, .. when you asked me to indicate to you the opinions and intentions of the cabinet of Madrid concerning the facts mentioned in the same dispatch I replied solely that the Spanish Government, like that of Washington, and like your excellency, with entire sincerity lamented the incident which was the cause of our interview; but that, while considering it and measuring its real significance, Señor Dupuy de Lome had already solved it by presenting the resignation of his charge, which the council of ministers had just accepted.

To this clear declaration I understood that I should limit my reply, because, in fact, the Spanish ministry, in accepting the resignation of a functionary whose services they had been utilizing and valuing up to that time, left it perfectly well established that they did not share, and rather, on the contrary, disauthorized, the criticisms tending to offend or censure the chief of a friendly State, although such criticisms had been written within the field of personal friendship, and had reached publicity by artful and criminal means.

.....

I take advantage, etc.,

PIO GULLON.

[Inclosure in No. 150.]

Mr. Woodford to Señor Gullon.

No. 67.]

LEGATION OF THE UNITED STATES,
Madrid, February 19, 1898.

EXCELLENCY:

MY DEAR SIR: On receiving on February 16 instant your courteous note dated February 15 instant I translated it at once into English and telegraphed the complete text to my Government.

To-day I am in receipt of telegraphic dispatch from the State Department at Washington directing me to inform your excellency that your note closes satisfactorily the incident raised by the publication of the private letter from the late minister of Spain at Washington.

I am further directed to assure your excellency of the gratification felt by my Government at your frank statements, which my Government had from the outset confidently expected.

I avail myself, etc.,

STEWART WOODFORD.

217. SENATOR PROCTOR'S SPEECH ON CUBA

The following speech made from first-hand observation of the conditions in Cuba, resulting from the Spanish military policy of reconcentration, had very much to do with focusing American indignation on the subject and on the destruction of the Maine in Habana Harbor. The speech was delivered March 17, 1898.

Congressional Record, 55 Congress, 2 Session, part 3, pp. 2916-2919.

Mr. PROCTOR. Mr. President, more importance seems to be attached by others to my recent visit to Cuba than I have given it, and it has been suggested that I make a public statement of what I saw and how the situation impressed me. This I do on account of the public interest in all that concerns Cuba, and to correct some inaccuracies that have, not unnaturally, appeared in reported interviews with me.

My trip was entirely unofficial and of my own motion, not suggested by anyone. . . No one but myself, therefore, is responsible for anything in this statement. Judge Day gave me a brief note of introduction to General Lee, and I had letters of introduction from business friends at the North to bankers and other business men at Habana, and they in turn gave me letters to their correspondents in other cities. These

letters to business men were very useful, as one of the principal purposes of my visit was to ascertain the views of practical men of affairs upon the situation.

.....

There are six provinces in Cuba, . . . My observations were confined to the four western provinces, which constitute about one-half of the island. The two eastern ones are practically in the hands of the insurgents, except the few fortified towns. These two large provinces are spoken of to-day as "Cuba Libre."

... Everything seems to go on much as usual in Habana. Quiet prevails, and except for the frequent squads of soldiers marching to guard and police duty and their abounding presence in all public places, one sees few signs of war.

Outside Habana all is changed. It is not peace nor is it war. It is desolation and distress, misery and starvation. Every town and village is surrounded by a "trocha" (trench), a sort of rifle pit, but constructed on a plan new to me, the dirt being thrown up on the inside and a barbed-wire fence on the outer side of the trench. These trochas have at every corner and at frequent intervals along the sides what are there called forts, but which are really small blockhouses, many of them more like large sentry boxes, loopholed for musketry, and with a guard of from two to ten soldiers in each.

The purpose of these trochas is to keep the reconcentrados in as well as to keep the insurgents out. From all the surrounding country the people have been driven in to these fortified towns and held there to subsist as they can. They are virtually prison yards, and not unlike one in general appearance, except that the walls are not so high and strong; but they suffice, where every point is in range of a soldier's rifle, to keep in the poor reconcentrado women and children.

Every railroad station is within one of these trochas and has an armed guard. . . . With this exception there is no human life or habitation between these fortified towns and villages, and throughout the whole of the four western provinces, except to a very limited extent among the hills where the Spaniards have not been able to go and drive the people to the towns and burn their dwellings. I saw no house or hut in the 400 miles of railroad rides from Pinar del Rio Province in the west across the full width of Habana and Matanzas provinces, and to Sagua La Grande on the north shore, and to Cienfuegos on the south shore of Santa Clara, except within the Spanish trochas.

There are no domestic animals or crops on the rich fields and pastures except such as are under guard in the immediate vicinity of the

towns. In other words, the Spaniards hold in these four western provinces just what their army sits on. Every man, woman, and child, and every domestic animal, wherever their columns have reached, is under guard and within their so-called fortifications. To describe one place is to describe all. To repeat, it is neither peace nor war. It is concentration and desolation. This is the "pacified" condition of the four western provinces.

.....

All the country people in the four western provinces, about 400,000 in number, remaining outside the fortified towns when Weyler's order was made were driven into these towns, and these are the reconcentrados. They were the peasantry, many of them farmers, some land-owners, others renting lands and owning more or less stock, others working on estates and cultivating small patches; and even a small patch in that fruitful clime will support a family.

It is but fair to say that the normal condition of these people was very different from what prevails in this country. Their standard of comfort and prosperity was not high measured by ours. But according to their standards and requirements their conditions of life were satisfactory.

They lived mostly in cabins made of palms or in wooden houses. Some of them had houses of stone, the blackened walls of which are all that remain to show the country was ever inhabited.

The first clause of Weyler's order reads as follows:

I ORDER AND COMMAND.

First. All the inhabitants of the country or outside of the line of fortifications of the towns shall, within the period of eight days, concentrate themselves in the towns occupied by the troops. Any individual who, after the expiration of this period, is found in the uninhabited parts will be considered a rebel and tried as such.

.....

Many, doubtless, did not learn of this order. Others failed to grasp its terrible meaning. Its execution was left largely to the guerrillas to drive in all that had not obeyed, and I was informed that in many cases the torch was applied to their homes with no notice, and the inmates fled with such clothing as they might have on, their stock and other belongings being appropriated by the guerrillas. When they reached the towns, they were allowed to build huts of palm leaves in

the suburbs and vacant places within the trochas, and left to live, if they could.

Their huts are about 10 by 15 feet in size, and for want of space are usually crowded together very closely. They have no floor but the ground, no furniture, and, after a year's wear, but little clothing except such stray substitutes as they can extemporize; and with large families, or more than one, in this little space, the commonest sanitary provisions are impossible. Conditions are unmentionable in this respect. Torn from their homes, with foul earth, foul air, foul water, and foul food or none, what wonder that one-half have died and that one-quarter of the living are so diseased that they can not be saved? A form of dropsy is a common disorder resulting from these conditions. Little children are still walking about with arms and chest terribly emaciated, eyes swollen, and abdomen bloated to three times the natural size. The physicians say these cases are hopeless.

Deaths in the streets have not been uncommon. I was told by one of our consuls that they have been found dead about the markets in the morning, where they had crawled, hoping to get some stray bits of food from the early hucksters, and that there had been cases where they had dropped dead inside the market surrounded by food. Before Weyler's order, these people were independent and self-supporting. They are not beggars even now. There are plenty of professional beggars in every town among the regular residents, but these country people, the reconcentrados, have not learned the art. Rarely is a hand held out to you for alms when going among their huts, but the sight of them makes an appeal stronger than words.

.....

I could not believe that out of a population of 1,600,000, two hundred thousand had died within these Spanish forts, practically prison walls, within a few months past from actual starvation and diseases caused by insufficient and improper food. My inquiries were entirely outside of sensational sources. They were made of our medical officers, of our consuls, of city *alcaldes* (mayors), of relief committees, of leading merchants and bankers, physicians, and lawyers. Several of my informants were Spanish born, but every time the answer was that the case had not been overstated. What I saw I can not tell so that others can see it. It must be seen with one's own eyes to be realized.

The Los Pasos Hospital, in Habana, has been recently described by one of my colleagues . . . I saw it when 400 women and children were lying on the floors in an indescribable state of emaciation and disease, many with the scantiest covering of rags—and such rags!—sick

children, naked as they came into the world; and the conditions in the other cities are even worse.

.....

... If our people could see a small fraction of the need, they would pour more "freely from their liberal stores" than ever before for any cause.

When will the need for this help end? Not until peace comes and the reconcentrados can go back to the country, rebuild their homes, reclaim their tillage plots, which quickly run up to brush in that wonderful soil and clime, and until they can be free from danger of molestation in so doing. Until then the American people must in the main care for them. It is true that the *alcaldes*, other local authorities, and the relief committees are now trying to do something, and desire, I believe, to do the best they can. But the problem is beyond their means and capacity, and the work is one to which they are not accustomed.

General Blanco's order of November 13 last somewhat modifies the Weyler order, but is of little or no practical benefit. Its application is limited to farms "properly defended," and the owners are obliged to build "centers of defense." Its execution is completely in the discretion of the local military authorities, and they know the terrible military efficiency of Weyler's order in stripping the country of all possible shelter, food, or source of information for an insurgent, and will be slow to surrender this advantage. In fact, though the order was issued four months ago, I saw no beneficent results from it worth mentioning.

I do not impugn General Blanco's motives, and believe him to be an amiable gentleman, and that he would be glad to relieve the condition of the reconcentrados if he could do so without loss of any military advantage; but he knows that all Cubans are insurgents at heart, and none now under military control will be allowed to go out from under it.

.....

I inquired in regard to autonomy of men of wealth and men as prominent in business as any in the cities of Habana, Matanzas, and Sagua, bankers, merchants, lawyers, and autonomist officials, some of them Spanish born but Cuban bred, one prominent Englishman, several of them known as autonomists, and several of them telling me they were still believers in autonomy if practicable, but without exception they replied that it was "too late" for that.

Some favored a United States protectorate, some annexation, some free Cuba; not one has been counted favoring the insurrection at first.

They were business men and wanted peace, but said it was too late for peace under Spanish sovereignty. They characterized Weyler's order in far stronger terms than I can. I could not but conclude that you do not have to scratch an autonomist very deep to find a Cuban. There is soon to be an election, but every polling place must be inside a fortified town. Such elections ought to be safe for the "ins."

I have endeavored to state in not intemperate mood what I saw and heard, and to make no argument thereon, but leave everyone to draw his own conclusions. To me the strongest appeal is not the barbarity practiced by Weyler nor the loss of the *Maine*, if our worst fears should prove true, terrible as are both of these incidents, but the spectacle of a million and a half of people, the entire native population of Cuba, struggling for freedom and deliverance from the worst misgovernment of which I ever had knowledge.

.....

218. McKINLEY'S WAR MESSAGE

In this message, McKinley stated the situation that, in his opinion, made armed intervention in Cuba necessary. There may be a question whether greater forbearance with Spain would not have averted the necessity for the war.

Richardson, Messages and Papers of the Presidents, Vol. 10, pp. 139-150.

EXECUTIVE MANSION, April 11, 1898.

TO the Congress of the United States:

...it becomes my duty to now address your body with regard to the grave crisis that has arisen in the relations of the United States to Spain by reason of the warfare that for more than three years has raged in the neighboring island of Cuba.

.....

The present revolution is but the successor of other similar insurrections which have occurred in Cuba against the dominion of Spain, extending over a period of nearly half a century, each of which during its progress has subjected the United States to great effort and expense in enforcing its neutrality laws, caused enormous losses to American trade and commerce, caused irritation, annoyance, and disturbance among our citizens, and, by the exercise of cruel, barbarous,

and uncivilized practices of warfare, shocked the sensibilities and offended the humane sympathies of our people.

Since the present revolution began, in February, 1895, this country has seen the fertile domain at our threshold ravaged by fire and sword in the course of a struggle unequaled in the history of the island and rarely paralleled as to the numbers of the combatants and the bitterness of the contest by any revolution of modern times where a dependent people striving to be free have been opposed by the power of the sovereign state.

.....

The war in Cuba is of such a nature that, short of subjugation or extermination, a final military victory for either side seems impracticable. The alternative lies in the physical exhaustion of the one or the other party, or perhaps of both — a condition which in effect ended the ten years' war by the truce of Zanjón. . .

Realizing this, it appeared to be my duty, in a spirit of true friendliness, no less to Spain than to the Cubans, who have so much to lose by the prolongation of the struggle, to seek to bring about an immediate termination of the war. To this end I submitted on the 27th ultimo, . . propositions to the Spanish Government looking to an armistice until October 1 for the negotiation of peace with the good offices of the President.

In addition I asked the immediate revocation of the order of reconcentration, so as to permit the people to return to their farms and the needy to be relieved with provisions and supplies from the United States, cooperating with the Spanish authorities, so as to afford full relief.

The reply of the Spanish cabinet was received on the night of the 31st ultimo. It offered, as the means to bring about peace in Cuba, to confide the preparation thereof to the insular parliament, inasmuch as the concurrence of that body would be necessary to reach a final result, it being, however, understood that the powers reserved by the constitution to the central Government are not lessened or diminished. As the Cuban parliament does not meet until the 4th of May next, the Spanish Government would not object for its part to accept at once a suspension of hostilities if asked for by the insurgents from the general in chief, to whom it would pertain in such case to determine the duration and conditions of the armistice.

The propositions submitted by General Woodford and the reply of the Spanish Government were both in the form of brief memoranda, the texts of which are before me and are substantially in the language

above given. The function of the Cuban parliament in the matter of "preparing" peace and the manner of its doing so are not expressed in the Spanish memorandum, but from General Woodford's explanatory reports of preliminary discussions preceding the final conference it is understood that the Spanish Government stands ready to give the insular congress full powers to settle the terms of peace with the insurgents, whether by direct negotiation or indirectly by means of legislation does not appear.

With this last overture in the direction of immediate peace, and its disappointing reception by Spain, the Executive is brought to the end of his effort.

.....

Nor from the standpoint of expediency do I think it would be wise or prudent for this Government to recognize at the present time the independence of the so-called Cuban Republic. Such recognition is not necessary in order to enable the United States to intervene and pacify the island...

.....

The forcible intervention of the United States as a neutral to stop the war, according to the large dictates of humanity and following many historical precedents where neighboring states have interfered to check the hopeless sacrifices of life by internecine conflicts beyond their borders, is justifiable on rational grounds...

The grounds for such intervention may be briefly summarized as follows:

First. In the cause of humanity and to put an end to the barbarities, bloodshed, starvation, and horrible miseries now existing there, ..

Second. We owe it to our citizens in Cuba to afford them that protection and indemnity for life and property which no government there can or will afford, and to that end to terminate the conditions that deprive them of legal protection.

Third. The right to intervene may be justified by the very serious injury to the commerce, trade, and business of our people and by the wanton destruction of property and devastation of the island.

Fourth, and which is of the utmost importance. The present condition of affairs in Cuba is a constant menace to our peace and entails upon this Government an enormous expense...

These elements of danger and disorder already pointed out have been strikingly illustrated by a tragic event which has deeply and justly moved the American people... the destruction of the battle ship *Maine* in the harbor of Havana during the night of the 15th of February. The

destruction of that noble vessel has filled the national heart with inexpressible horror. . .

The naval court of inquiry, which, it is needless to say, commands the unqualified confidence of the Government, was unanimous in its conclusion that the destruction of the *Maine* was caused by an exterior explosion — that of a submarine mine. It did not assume to place the responsibility. That remains to be fixed.

In any event, the destruction of the *Maine*, by whatever exterior cause, is a patent and impressive proof of a state of things in Cuba that is intolerable. That condition is thus shown to be such that the Spanish Government can not assure safety and security to a vessel of the American Navy in the harbor of Havana on a mission of peace, and rightfully there.

.....

... In the name of humanity, in the name of civilization, in behalf of endangered American interests which give us the right and the duty to speak and to act, the war in Cuba must stop.

In view of these facts and of these considerations I ask the Congress to authorize and empower the President to take measures to secure a full and final termination of hostilities between the Government of Spain and the people of Cuba, and to secure in the island the establishment of a stable government, capable of maintaining order and observing its international obligations, insuring peace and tranquillity and the security of its citizens as well as our own, and to use the military and naval forces of the United States as may be necessary for these purposes.

.....

WILLIAM McKINLEY.

219. RECOGNITION OF THE INDEPENDENCE OF CUBA
APRIL 20, 1898

Five days later, after the withdrawal of the Spanish Minister, the United States declared war against Spain.

Richardson, Messages and Papers of the Presidents, Vol. 10, p. 155.

JOINT RESOLUTION for the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba and to with-

draw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect.

Whereas the abhorrent conditions which have existed for more than three years in the island of Cuba, so near our own borders, have shocked the moral sense of the people of the United States, have been a disgrace to Christian civilization, culminating, as they have, in the destruction of a United States battle ship, with 266 of its officers and crew, while on a friendly visit in the harbor of Havana, and can not longer be endured, as has been set forth by the President of the United States in his message to Congress of April 11, 1898, upon which the action of Congress was invited: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the island of Cuba are and of right ought to be free and independent.

Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters.

Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States and to call into the actual service of the United States the militia of the several States to such extent as may be necessary to carry these resolutions into effect.

Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people.

Approved, April 20, 1898.

220. ANNEXATION OF HAWAII

Ever since the last native sovereign of Hawaii was deposed by her people in January, 1893, an element in the islands had been looking toward annexation by the United States. A treaty of annexation was concluded in 1893 but on the accession of the Democrats to power was withdrawn. The second treaty for the annexation of the islands was pending when, under the need for a naval base during the Spanish-American

war, the following joint resolution was passed annexing the islands to the United States, July 7, 1898.

Statutes at Large of the United States, Vol. 30, part 2, pp. 750-751.

[No. 55.] Joint Resolution To provide for annexing the Hawaiian Islands to the United States.

WHEREAS the Government of the Republic of Hawaii having, in due form, signified its consent, in the manner provided by its constitution, to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property of every kind and description belonging to the Government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining: Therefore

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are hereby, annexed as a part of the territory of the United States and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.

.....

Until Congress shall provide for the government of such islands all the civil, judicial, and military powers exercised by the officers of the existing government in said islands shall be vested in such person or persons and shall be exercised in such manner as the President of the United States shall direct; and the President shall have power to remove said officers and fill the vacancies so occasioned.

The existing treaties of the Hawaiian Islands with foreign nations shall forthwith cease and determine, being replaced by such treaties as may exist, or as may be hereafter concluded, between the United States and such foreign nations. The municipal legislation of the Hawaiian Islands, not enacted for the fulfillment of the treaties so extinguished, and not inconsistent with this joint resolution nor contrary to the Constitution of the United States nor to any existing treaty of the United States, shall remain in force until the Congress of the United States shall otherwise determine.

Until legislation shall be enacted extending the United States customs laws and regulations to the Hawaiian Islands the existing customs relations of the Hawaiian Islands with the United States and other countries shall remain unchanged.

The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. . .

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; and no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands.

.....

Approved, July 7, 1898.

221. THE TREATY OF PEACE WITH SPAIN

Concluded December 10, 1898.

Senate Documents, *Vol. 8, No. 62, 3 Pts. pp. 3-11. Washington, 1899.*

TREATY OF PEACE OF DECEMBER 10, 1898.

THE UNITED STATES OF AMERICA AND HER MAJESTY THE QUEEN REGENT OF SPAIN, IN THE NAME OF HER AUGUST SON DON ALFONSO XIII, desiring to end the state of war now existing between the two countries, have for that purpose appointed . . . Plenipotentiaries:

.....

Who . . . have . . . agreed upon the following articles:

ARTICLE I.

Spain relinquishes all claim of sovereignty over and title to Cuba.

And as the island is, upon its evacuation by Spain, to be occupied by the United States, the United States will, so long as such occupation shall last, assume and discharge the obligations that may under international law result from the fact of its occupation, for the protection of life and property.

ARTICLE II.

Spain cedes to the United States the island of Porto Rico and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marianas or Ladrones.

ARTICLE III.

Spain cedes to the United States the archipelago known as the Philippine Islands, ..

.....

The United States will pay to Spain the sum of twenty million dollars (\$20,000,000), within three months after the exchange of the ratification of the present treaty.

ARTICLE IV.

The United States will, for the term of ten years from the date of the exchange of the ratifications of the present treaty, admit Spanish ships and merchandise to the ports of the Philippine Islands on the same terms as ships and merchandise of the United States.

ARTICLE V.

The United States will, upon the signature of the present treaty, send back to Spain, at its own cost the Spanish soldiers taken as prisoners of war on the capture of Manila by the American forces. The arms of the soldiers in question shall be restored to them.

Spain will, upon the exchange of the ratifications of the present treaty, proceed to evacuate the Philippines, as well as the island of Guam, on terms similar to those agreed upon by the Commissioners appointed to arrange for the evacuation of Porto Rico and other islands in the West Indies, under the Protocol of August 12, 1898, which is to continue in force till its provisions are completely executed.

.....

ARTICLE VI.

Spain will, upon the signature of the present treaty, release all prisoners of war, and all persons detained or imprisoned for political offences, in connection with the insurrections in Cuba and the Philippines and the war with the United States.

Reciprocally, the United States will release all persons made prisoners of war by the American forces, and will undertake to obtain the release of all Spanish prisoners in the hands of the insurgents in Cuba and the Philippines.

The Government of the United States will at its own cost return to Spain and the Government of Spain will at its own cost return to the United States, Cuba, Porto-Rico, and the Philippines, according to the situation of their respective homes, prisoners released or caused to be released by them, respectively, under this article.

ARTICLE VII.

The United States and Spain mutually relinquish all claims for indemnity, national and individual, of every kind, of either Government, or of its citizens or subjects, against the other Government, that may have arisen since the beginning of the late insurrection in Cuba and prior to the exchange of ratifications of the present treaty, including all claims for indemnity for the cost of the war.

The United States will adjudicate and settle the claims of its citizens against Spain relinquished in this article.

.....

ARTICLE IX.

Spanish subjects, natives of the Peninsula, residing in the territory over which Spain by the present treaty relinquishes or cedes her sovereignty, may remain in such territory or may remove therefrom, . . . In case they remain in the territory they may preserve their allegiance to the Crown of Spain by making, before a court of record, within a year from the date of the exchange of ratifications of this treaty, a declaration of their decision to preserve such allegiance; in default of which declaration they shall be held to have renounced it and to have adopted the nationality of the territory in which they may reside.

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

ARTICLE X.

The inhabitants of the territories over which Spain relinquishes or cedes her sovereignty shall be secured in the free exercise of their religion.

.....

ARTICLE XV.

The Government of each country will, for the term of ten years, accord to the merchant vessels of the other country the same treatment in respect of all port charges, including entrance and clearance dues, light dues, and tonnage duties, as it accords to its own merchant vessels, not engaged in the coastwise trade.

This article may at any time be terminated on six months' notice given by either Government to the other.

ARTICLE XVI.

It is understood that any obligations assumed in this treaty by the United States with respect to Cuba are limited to the time of its occupancy thereof; but it will upon the termination of such occupancy, advise any Government established in the island to assume the same obligations.

ARTICLE XVII.

.....

In faith whereof, we, the respective Plenipotentiaries, have signed this treaty and have hereunto affixed our seals.

Done in duplicate at Paris, the tenth day of December, in the year of Our Lord one thousand eight hundred and ninety-eight.

[SEAL] WILLIAM R. DAY
[SEAL] CUSHMAN K. DAVIS
[SEAL] WILLIAM P. FRYE
[SEAL] GEO. GRAY
[SEAL] WHITELAW REID.

222. THE OPEN DOOR NEGOTIATION

The following series of diplomatic interchanges contains a denunciation of John Hay's Chinese policy of equal opportunities for citizens of all nations in China as against the exploitation of special areas by special nations.

Papers Relating to the Foreign Relations of the United States, 1899, pp. 129-142. *Washington, 1901.*

No. 927.]

DEPARTMENT OF STATE,

Washington, September 6, 1899.

SIR:...

.....

EARNESTLY desirous to remove any cause of irritation and to insure at the same time to the commerce of all nations in China the undoubted benefits which should accrue from a formal recognition by the various powers claiming "spheres of interest" that they shall enjoy perfect equality of treatment for their commerce and navigation within such "spheres," the Government of the United States would be pleased to see His German Majesty's Government give formal assurances, and lend its cooperation in securing like assurances from the other interested powers, that each, within its respective sphere of whatever influence —

First. Will in no way interfere with any treaty port or any vested interest within any so-called "sphere of interest" or leased territory it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled, or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its own nationals transported over equal distances.

The liberal policy pursued by His Imperial German Majesty in declaring Kiao-chao a free port and in aiding the Chinese Government in the establishment there of a custom-house are so clearly in line with the proposition which this Government is anxious to see recognized that it entertains the strongest hope that Germany will give its acceptance and hearty support.

The recent ukase of His Majesty the Emperor of Russia declaring the port of Ta-lien-wan open during the whole of the lease under which it is held from China to the merchant ships of all nations, coupled with the categorical assurances made to this Government by His Imperial Majesty's representative at this capital at the time and since repeated to me by the present Russian ambassador, seem to insure the support of the Emperor to the proposed measure. Our ambassador at

the Court of St. Petersburg has in consequence been instructed to submit it to the Russian Government and to request their early consideration of it. A copy of my instruction on the subject to Mr. Tower is herewith inclosed for your confidential information.

The commercial interests of Great Britain and Japan will be so clearly served by the desired declaration of intentions, and the views of the Governments of these countries as to the desirability of the adoption of measures insuring the benefits of equality of treatment of all foreign trade throughout China are so similar to those entertained by the United States, that their acceptance of the propositions herein outlined and their cooperation in advocating their adoption by the other powers can be confidently expected. I inclose herewith copy of the instruction which I have sent to Mr. Choate on the subject.

In view of the present favorable conditions, you are instructed to submit the above considerations to His Imperial German Majesty's Minister for Foreign Affairs, and to request his early consideration of the subject.

Copy of this instruction is sent to our ambassadors at London and at St. Petersburg for their information.

I have, etc.,

JOHN HAY.

.....

Count von Bülow to Mr. White.

[Translation.]

FOREIGN OFFICE,
Berlin, February 19, 1900.

Mr. AMBASSADOR: Your excellency informed me, in a memorandum presented on the 24th of last month, that the Government of the United States of America had received satisfactory written replies from all the powers to which an inquiry had been addressed similar to that contained in your excellency's note of September 26 last, in regard to the policy of the open door in China. While referring to this, your excellency thereupon expressed the wish that the Imperial Government would now also give its answer in writing.

Gladly complying with this wish, I have the honor to inform your excellency, repeating the statements already made verbally, as follows: As recognized by the Government of the United States of America, according to your excellency's note referred to above, the Imperial Government has, from the beginning, not only asserted, but also

practically carried out to the fullest extent, in its Chinese possessions, absolute equality of treatment of all nations with regard to trade, navigation, and commerce. The Imperial Government entertains no thought of departing in the future from this principle, which at once excludes any prejudicial or disadvantageous commercial treatment of the citizens of the United States of America, so long as it is not forced to do so, on account of considerations of reciprocity, by a divergence from it by other governments. If, therefore, the other powers interested in the industrial development of the Chinese Empire are willing to recognize the same principles, this can only be desired by the Imperial Government, which in this case upon being requested will gladly be ready to participate with the United States of America and the other powers in an agreement made upon these lines, by which the same rights are reciprocally secured.

I avail myself, etc.,

BÜLOW.

.....

Viscount Aoki to Mr. Buck.

[Translation.]

DEPARTMENT OF FOREIGN AFFAIRS,

*Tokyo, the 26th day, the 12th month of the 32d year of Meiji,
(December 26, 1899).*

Mr. MINISTER: I have the honor to acknowledge the receipt of the note No. 176 of the 20th instant, in which, pursuing the instructions of the United States Government, your excellency was so good as to communicate to the Imperial Government the representations of the United States as presented in notes to Russia, Germany, and Great Britain on the subject of commercial interests of the United States in China.

I have the happy duty of assuring your excellency that the Imperial Government will have no hesitation to give their assent to so just and fair a proposal of the United States, provided that all the other powers concerned shall accept the same.

I avail myself, etc.,

VISCOUNT AOKI SIUZO,
Minister for Foreign Affairs.

.....

Instructions sent mutatis mutandis to the United States ambassadors at London, Paris, Berlin, St. Petersburg, and Rome, and to the United States minister at Tokyo.

DEPARTMENT OF STATE,
Washington, March 20, 1900.

SIR: The —— Government having accepted the declaration suggested by the United States concerning foreign trade in China, the terms of which I transmitted to you in my instruction No. —— of ——, and like action having been taken by all the various powers having leased territory or so-called "spheres of interest" in the Chinese Empire, as shown by the notes which I herewith transmit to you, you will please inform the Government to which you are accredited that the condition originally attached to its acceptance — that all other powers concerned should likewise accept the proposals of the United States — having been complied with, this Government will therefore consider the assent given to it by —— as final and definitive.

You will also transmit to the minister for foreign affairs copies of the present inclosures, and by the same occasion convey to him the expression of the sincere gratification which the President feels at the successful termination of these negotiations, in which he sees proof of the friendly spirit which animates the various powers interested in the untrammelled development of commerce and industry in the Chinese Empire, and a source of vast benefit to the whole commercial world.

I am, etc.,

JOHN HAY.

223. THE GOLD STANDARD ACT OF 1900

The following act is usually taken as a definite adherence of the United States to the gold standard, after its 25 years excursion toward bimetallism. As a consolation to the free silver element, it held out the hope of bimetallism by international agreement.

Statutes at Large of the United States, Vol. 31, part 1, pp. 45-50.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the dollar consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, as established by section thirty-five hundred and eleven of the Revised Statutes of the United States, shall be the standard unit of value, and all forms

of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity.

SEC. 2. That United States notes, and Treasury notes issued under the Act of July fourteenth, eighteen hundred and ninety, when presented to the Treasury for redemption, shall be redeemed in gold coin of the standard fixed in the first section of this Act, and in order to secure the prompt and certain redemption of such notes as herein provided it shall be the duty of the Secretary of the Treasury to set apart in the Treasury a reserve fund of one hundred and fifty million dollars in gold coin and bullion, which fund shall be used for such redemption purposes only, and whenever and as often as any of said notes shall be redeemed from said fund it shall be the duty of the Secretary of the Treasury to use said notes so redeemed to restore and maintain such reserve fund. . .

SEC. 3. That nothing contained in this Act shall be construed to affect the legal-tender quality as now provided by law of the silver dollar, or of any other money coined or issued by the United States.

.....

SEC. 14. That the provisions of this Act are not intended to preclude the accomplishment of international bimetallism whenever conditions shall make it expedient and practicable to secure the same by concurrent action of the leading commercial nations of the world and at a ratio which shall insure permanence of relative value between gold and silver.

Approved, March 14, 1900.

224. HAY'S SECOND "OPEN DOOR" NOTE

Under the stress of the Boxer Insurrection, John Hay maintained the United States' Chinese policy.

Papers Relating to the Foreign Relations of the United States, 1900, p. 299. Washington, 1902.

Mr. Hay to Mr. Herdlika.

[Circular telegram.]

Also sent to the representatives of the United States at Berlin, London, Paris, Rome, St. Petersburg, and Tokio.

DEPARTMENT OF STATE,

Washington, July 3, 1900.

IN this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857, of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers, first, in opening up communication with Peking and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

You will communicate the purport of this instruction to the minister for foreign affairs.

HAY.

225. THE PLATT AMENDMENT

The following articles declaring the relation between Cuba and the United States were tacked to the Army Appropriation Bill for 1902. The Cuban convention grudgingly accepted these conditions of their

independence. The act containing the Platt Amendment was passed March 2, 1901.

Statutes at Large of the United States, Vol. 31, part 2, pp. 895-898.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, . . . appropriated, . . . for the support of the Army for the year ending June thirtieth, nineteen hundred and two:

.....

... *Provided further*, That in fulfillment of the declaration contained in the joint resolution approved April twentieth, eighteen hundred and ninety-eight, entitled, "For the recognition of the independence of the people of Cuba . . ." the President is hereby authorized to "leave the government and control of the island of Cuba to its people" so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

I.

That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes or otherwise, lodgment in or control over any portion of said island.

II.

That said government shall not assume or contract any public debt, to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government shall be inadequate.

III.

That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obli-

gations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

IV.

That all Acts of the United States in Cuba during its military occupancy there are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

V.

That the government of Cuba will execute, and as far as necessary extend, the plans already devised or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

VI.

That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

VII.

That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points, to be agreed upon with the President of the United States.

VIII.

That by way of further assurance the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.

226. THE HAY-PAUNCEFOTE TREATY

The following treaty concluded November 18, 1901, superseded the Clayton-Bulwer Treaty of 1850.

Foreign Relations of the United States, 1901, pp. 244-246.
Washington, 1902.

THE United States of America and His Majesty Edward the Seventh, of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the Seas, King, and Emperor of India, being desirous to facilitate the construction of a ship canal to connect the Atlantic and Pacific Oceans, by whatever route may be considered expedient, and to that end to remove any objection which may arise out of . . . the Clayton-Bulwer Treaty, to the construction of such canal under the auspices of the Government of the United States, without impairing the "general principle" of neutralization established in Article VIII of that Convention, have . . .

.....

...agreed upon the following Articles:

ARTICLE I.

The high contracting parties agree that the present treaty shall supersede the afore-mentioned convention of the 19th April, 1850.

ARTICLE II.

It is agreed that the canal may be constructed under the auspices of the Government of the United States either directly at its own cost, or by gift or loan of money to individuals or corporations, or through subscription to or purchase of stock or shares, and that, subject to the provisions of the present treaty, the said Government shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal.

ARTICLE III.

The United States adopts, as the basis of the neutralization of such ship canal, the following rules, substantially as embodied in the Convention of Constantinople, signed the 28th October, 1888, for the free navigation of the Suez Canal, that is to say:

1. The canal shall be free and open to the vessels of commerce and of war of all nations observing these Rules, on terms of entire equality, so that there shall be no discrimination against any such nation, or its citizens or subjects, in respect of the conditions or charges of traffic or otherwise. Such conditions and charges of traffic shall be just and equitable.

2. The canal shall never be blockaded, nor shall any right of war be exercised nor any act of hostility be committed within it. The

United States, however, shall be at liberty to maintain such military police along the canal as may be necessary to protect it against lawlessness and disorder.

3. Vessels of war of a belligerent shall not revictual nor take any stores in the canal except so far as may be strictly necessary; and the transit of such vessels through the canal shall be effected with the least possible delay in accordance with the Regulations in force, and with only such intermission as may result from the necessities of the service.

Prizes shall be in all respects subject to the same rules as vessels of war of the belligerents.

4. No belligerent shall embark or disembark troops, munitions of war, or warlike materials in the canal, except in case of accidental hindrance of the transit, and in such case the transit shall be resumed with all possible dispatch.

5. The provisions of this article shall apply to waters adjacent to the canal, within 3 marine miles of either end. Vessels of war of a belligerent shall not remain in such waters longer than twenty-four hours at any one time, except in case of distress, and in such case shall depart as soon as possible; but a vessel of war of one belligerent shall not depart within twenty-four hours from the departure of a vessel of war of the other belligerent.

6. The plant, establishments, buildings, and all works necessary to the construction, maintenance, and operation of the canal shall be deemed to be part thereof, for the purposes of this treaty, and in time of war, as in time of peace, shall enjoy complete immunity from attack or injury by belligerents, and from acts calculated to impair their usefulness as part of the canal.

ARTICLE IV.

It is agreed that no change of territorial sovereignty or of international relations of the country or countries traversed by the before-mentioned canal shall affect the general principle of neutralization or the obligation of the high contracting parties under the present treaty.

ARTICLE V.

.....

Done in duplicate at Washington, the 18th day of November, in the year of our Lord one thousand nine hundred and one.

JOHN HAY. [SEAL.]
PAUNCEFOTE. [SEAL.]

227. ROOSEVELT ON THE TRUSTS

The following extracts from Roosevelt's message of 1901, state the program of his administration.

House Documents, Vol. 1, No. 1 President's Message and Foreign Relations, 1901 — Affairs in China. 57 Congress, 1 session, 1901-1902. pp, XIV-XVIII. Washington, 1902.

.....

THE tremendous and highly complex industrial development which went on with ever accelerated rapidity during the latter half of the nineteenth century brings us face to face, at the beginning of the twentieth, with very serious social problems.

.....

The growth of cities has gone on beyond comparison faster than the growth of the country, and the upbuilding of the great industrial centers has meant a startling increase, not merely in the aggregate of wealth, but in the number of very large individual, and especially of very large corporate, fortunes. The creation of these great corporate fortunes has not been due to the tariff nor to any other governmental action, but to natural causes in the business world, operating in other countries as they operate in our own.

The process has aroused much antagonism, a great part of which is wholly without warrant... never before has the average man, the wage-worker, the farmer, the small trader, been so well off as in this country and at the present time. There have been abuses connected with the accumulation of wealth; yet it remains true that a fortune accumulated in legitimate business can be accumulated by the person specially benefited only on condition of conferring immense incidental benefits upon others. Successful enterprise, of the type which benefits all mankind, can only exist if the conditions are such as to offer great prizes as the rewards of success.

The captains of industry who have driven the railway systems across this continent, who have built up our commerce, who have developed our manufactures, have on the whole done great good to our people. Without them the material development of which we are so justly proud could never have taken place...

An additional reason for caution in dealing with corporations is to be found in the international commercial conditions of to-day... America has only just begun to assume that commanding position in the international business world which we believe will more and more

be hers. It is of the utmost importance that this position be not jeopardized, especially at a time when the overflowing abundance of our own natural resources and the skill, business energy, and mechanical aptitude of our people make foreign markets essential. Under such conditions it would be most unwise to cramp or to fetter the youthful strength of our Nation.

Moreover, it cannot too often be pointed out that to strike with ignorant violence at the interests of one set of men almost inevitably endangers the interests of all. The fundamental rule in our national life — the rule which underlies all others — is that, on the whole, and in the long run, we shall go up or down together. . . Disaster to great business enterprises can never have its effects limited to the men at the top. It spreads throughout, and while it is bad for everybody, it is worst for those farthest down. The capitalist may be shorn of his luxuries; but the wage-worker may be deprived of even bare necessities.

The mechanism of modern business is so delicate that extreme care must be taken not to interfere with it in a spirit of rashness or ignorance. . . The men who demand the impossible or the undesirable serve as the allies of the forces with which they are nominally at war, for they hamper those who would endeavor to find out in rational fashion what the wrongs really are and to what extent and in what manner it is practicable to apply remedies.

All this is true; and yet it is also true that there are real and grave evils, one of the chief being over-capitalization because of its many baleful consequences; and a resolute and practical effort must be made to correct these evils.

There is a widespread conviction in the minds of the American people that the great corporations known as trusts are in certain of their features and tendencies hurtful to the general welfare. This springs from no spirit of envy or uncharitableness, nor lack of pride in the great industrial achievements that have placed this country at the head of the nations struggling for commercial supremacy. . . It is based upon sincere conviction that combination and concentration should be, not prohibited, but supervised and within reasonable limits controlled; and in my judgment this conviction is right.

It is no limitation upon property rights or freedom of contract to require that when men receive from Government the privilege of doing business under corporate form, which frees them from individual responsibility, and enables them to call into their enterprises the capital of the public, they shall do so upon absolutely truthful representations as to the value of the property in which the capital is to be invested. Corporations engaged in interstate commerce should be regulated if

they are found to exercise a license working to the public injury... Great corporations exist only because they are created and safeguarded by our institutions; and it is therefore our right and our duty to see that they work in harmony with these institutions.

The first essential in determining how to deal with the great industrial combinations is knowledge of the facts—publicity. In the interest of the public, the Government should have the right to inspect and examine the workings of the great corporations engaged in interstate business. Publicity is the only sure remedy which we can now invoke... The first requisite is knowledge, full and complete—knowledge which may be made public to the world.

Artificial bodies, such as corporations and joint stock or other associations, depending upon any statutory law for their existence or privileges, should be subject to proper governmental supervision, and full and accurate information as to their operations should be made public regularly at reasonable intervals.

The large corporations, commonly called trusts, though organized in one State, always do business in many States, often doing very little business in the State where they are incorporated... Therefore, in the interest of the whole people, the Nation should, without interfering with the power of the States in the matter itself, also assume power of supervision and regulation over all corporations doing an interstate business. This is especially true where the corporation derives a portion of its wealth from the existence of some monopolistic element or tendency in its business...

... I believe that a law can be framed which will enable the National Government to exercise control along the lines above indicated; profiting by the experience gained through the passage and administration of the Interstate-Commerce Act. If, however, the judgment of the Congress is that it lacks the constitutional power to pass such an act, then a constitutional amendment should be submitted to confer the power.

.....

228. ROOSEVELT AND CONSERVATION

President Roosevelt, with his natural love of the outdoors, adopted and pressed the conservation policy. It is classically stated in the following extract from his message of 1901.

House Documents, Vol. 1, pp. XXVI-XXX. Washington, 1902.

.....

PUBLIC opinion throughout the United States has moved steadily toward a just appreciation of the value of forests, whether planted or of natural growth. The great part played by them in the creation and maintenance of the national wealth is now more fully realized than ever before.

Wise forest protection does not mean the withdrawal of forest resources, whether of wood, water, or grass, from contributing their full share to the welfare of the people, but, on the contrary, gives the assurance of larger and more certain supplies. The fundamental idea of forestry is the perpetuation of forests by use. Forest protection is not an end of itself; it is a means to increase and sustain the resources of our country and the industries which depend upon them. The preservation of our forests is an imperative business necessity. We have come to see clearly that whatever destroys the forest, except to make way for agriculture, threatens our well-being.

The practical usefulness of the national forest reserves to the mining, grazing, irrigation, and other interests of the regions in which the reserves lie has led to a widespread demand by the people of the West for their protection and extension. The forest reserves will inevitably be of still greater use in the future than in the past. Additions should be made to them whenever practicable, and their usefulness should be increased by a thoroughly businesslike management.

... The President should have by law the power of transferring lands for use as forest reserves to the Department of Agriculture. He already has such power in the case of lands needed by the Departments of War and the Navy.

The wise administration of the forest reserves will be not less helpful to the interests which depend on water than to those which depend on wood and grass. The water supply itself depends upon the forest. In the arid region it is water, not land, which measures production. The western half of the United States would sustain a population greater than that of our whole country to-day if the waters that now run to waste were saved and used for irrigation. The forest and water problems are perhaps the most vital internal questions of the United States.

Certain of the forest reserves should also be made preserves for the wild forest creatures. All of the reserves should be better protected from fires. Many of them need special protection because of the great injury done by live stock, above all by sheep. The increase in deer, elk, and other animals in the Yellowstone Park shows what may be expected when other mountain forests are properly protected by law and properly guarded. Some of these areas have been so denuded of surface vegetation by overgrazing that the ground breeding birds, including grouse

and quail, and many mammals, including deer, have been exterminated or driven away. At the same time the water-storing capacity of the surface has been decreased or destroyed, thus promoting floods in times of rain and diminishing the flow of streams between rains.

In cases where natural conditions have been restored for a few years, vegetation has again carpeted the ground, birds and deer are coming back, and hundreds of persons, especially from the immediate neighborhood, come each summer to enjoy the privilege of camping. Some at least of the forest reserves should afford perpetual protection to the native fauna and flora, safe havens of refuge to our rapidly diminishing wild animals of the larger kinds, and free camping grounds for the ever-increasing numbers of men and women who have learned to find rest, health, and recreation in the splendid forests and flower-clad meadows of our mountains. The forest reserves should be set apart forever for the use and benefit of our people as a whole and not sacrificed to the shortsighted greed of a few.

The forests are natural reservoirs. By restraining the streams in flood and replenishing them in drought they make possible the use of waters otherwise wasted. They prevent the soil from washing, and so protect the storage reservoirs from filling up with silt. Forest conservation is therefore an essential condition of water conservation.

The forests alone cannot, however, fully regulate and conserve the waters of the arid region. Great storage works are necessary to equalize the flow of streams and to save the flood waters. Their construction has been conclusively shown to be an undertaking too vast for private effort. . . It is properly a national function, at least in some of its features. It is as right for the National Government to make the streams and rivers of the arid region useful by engineering works for water storage as to make useful the rivers and harbors of the humid region by engineering works of another kind. The storing of the floods in reservoirs at the headwaters of our rivers is but an enlargement of our present policy of river control, under which levees are built on the lower reaches of the same streams.

The Government should construct and maintain these reservoirs as it does other public works. Where their purpose is to regulate the flow of streams, the water should be turned freely into the channels in the dry season to take the same course under the same laws as the natural flow.

The reclamation of the unsettled arid public lands presents a different problem. Here it is not enough to regulate the flow of streams. The object of the Government is to dispose of the land to settlers who will

build homes upon it. To accomplish this object water must be brought within their reach.

The pioneer settlers on the arid public domain chose their homes along streams from which they could themselves divert the water to reclaim their holdings. Such opportunities are practically gone. There remain, however, vast areas of public land which can be made available for homestead settlement, but only by reservoirs and main-line canals impracticable for private enterprise. These irrigation works should be built by the National Government. The lands reclaimed by them should be reserved by the Government for actual settlers, and the cost of construction should so far as possible be repaid by the land reclaimed. . . . The policy of the National Government should be to aid irrigation in the several States and Territories in such manner as will enable the people in the local communities to help themselves, and as will stimulate needed reforms in the State laws and regulations governing irrigation.

The reclamation and settlement of the arid lands will enrich every portion of our country, just as the settlement of the Ohio and Mississippi valleys brought prosperity to the Atlantic States. The increased demand for manufactured articles will stimulate industrial production, while wider home markets and the trade of Asia will consume the larger food supplies and effectually prevent Western competition with Eastern agriculture. Indeed, the products of irrigation will be consumed chiefly in upbuilding local centers of mining and other industries, which would otherwise not come into existence at all. Our people as a whole will profit, for successful home-making is but another name for the upbuilding of the Nation.

.....

Whatever the Nation does for the extension of irrigation should harmonize with, and tend to improve, the condition of those now living on irrigated land. We are not at the starting point of this development. Over two hundred millions of private capital has already been expended in the construction of irrigation works, and many million acres of arid land reclaimed. A high degree of enterprise and ability has been shown in the work itself; but as much cannot be said in reference to the laws relating thereto. The security and value of the homes created depend largely on the stability of titles to water; but the majority of these rest on the uncertain foundation of court decisions rendered in ordinary suits at law. With a few creditable exceptions, the arid States have failed to provide for the certain and just division of streams in times of scarcity. Lax and uncertain laws have made it possible to establish rights to water in excess of actual uses or necessities, and many streams

have already passed into private ownership, or a control equivalent to ownership.

Whoever controls a stream practically controls the land it renders productive, and the doctrine of private ownership of water apart from land cannot prevail without causing enduring wrong. The recognition of such ownership, which has been permitted to grow up in the arid regions, should give way to a more enlightened and larger recognition of the rights of the public in the control and disposal of the public water supplies. Laws founded upon conditions obtaining in humid regions, where water is too abundant to justify hoarding it, have no proper application in a dry country.

229. INITIATIVE AND REFERENDUM

The Initiative and Referendum were popular constitutional devices among reformers at the beginning of the twentieth Century. In effect, they amounted to the assumption by the people of the state, of legislative powers to secure legislation which their elected representatives would not accord them. Typical Initiative and Referendum amendments of 1902 from the constitution of Oregon are here given.

Thorpe, Federal and State Constitutions, Vol. 5, pp. 3018-3019.

SECTION 1 of article IV of the Constitution of the State of Oregon shall be, and hereby is, amended to read as follows:

“SECTION 1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety,) either by the petition signed by five per cent of the legal voters, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not

more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: 'Be it enacted by the people of the State of Oregon.' This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor."

230. PACIFICATION OF THE PHILIPPINES

The following proclamation of July 4, 1902, marked the end of the Philippine insurrection.

Statutes at Large of the United States, Vol. 32, Proclamations, pp. 51-52.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

WHEREAS, Many of the inhabitants of the Philippine Archipelago were in insurrection against the authority and sovereignty of the Kingdom of Spain at divers times from August, 1896, until the cession of the archipelago by that Kingdom to the United States of America, and since such cession many of the persons so engaged in insurrection have until recently resisted the authority and sovereignty of the United States; and

Whereas, The insurrection against the authority and sovereignty of the United States is now at an end, and peace has been established in all parts of the archipelago, except in the country inhabited by the Moro tribes, to which this proclamation does not apply; and

Whereas, During the course of the insurrection against the Kingdom of Spain and against the Government of the United States, persons engaged therein, or those in sympathy with and abetting them, committed many acts in violation of the laws of civilized warfare; but it is believed that such acts were generally committed in ignorance of those laws, and under orders issued by the civil or insurrectionary leaders; and

Whereas, It is deemed to be wise and humane, in accordance with the beneficent purposes of the Government of the United States towards the Filipino people, conducive to peace, order, and loyalty among them, that the doers of such acts who have not already suffered punishment shall not be held criminally responsible, but shall be relieved from punishment for participation in these insurrections and for unlawful acts committed during the course thereof by a general amnesty and pardon;

Now, therefore, be it known that I, THEODORE ROOSEVELT, President of the United States of America, by virtue of the power and authority vested in me by the Constitution, do hereby proclaim and declare without reservation or condition, except as hereinafter provided, a full and complete pardon and amnesty to all persons in the Philippine Archipelago who have participated in the insurrections aforesaid or who have given aid and comfort to persons participating in said insurrections for the offenses of treason or sedition and for all offenses political in their character committed in the course of such insurrections pursuant to orders issued by the civil or military insurrectionary authorities, or which grew out of internal political feuds or dissensions, between Filipinos and Spaniards, or the Spanish authorities, or which resulted from internal political feuds or dissensions among the Filipinos themselves during either of said insurrections.

Provided, however, That the pardon and amnesty hereby granted shall not include such persons committing crimes since May 1, 1902, in any province of the archipelago in which at the time civil government was established, nor shall it include such persons as have been heretofore finally convicted of . . . crimes . . . by any military or civil tribunal organized under the authority of Spain, or of the United States of America, . .

Provided further, that every person who shall seek to avail himself of this proclamation shall take and subscribe the following oath before any authority in the Philippine Archipelago authorized to administer oaths, namely:

"I, ———, solemnly swear (or affirm) that I recognize and accept the supreme authority of the United States of America in the Philippine Islands and will maintain true faith and allegiance thereto; that I impose upon myself this obligation voluntarily without mental reservation or purpose of evasion. So help me God."

.....

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

231. THE PANAMA REVOLUTION

August 12, 1903, the Senate of Colombia rejected a convention with the United States authorizing the construction of a canal across the Isthmus of Panama. A few weeks later a revolution broke out in Panama, which was promptly recognized as an independent state by the United States. The grateful Republic of Panama promptly concluded a canal treaty with its protector. The following diplomatic correspondence illustrates graphically the progress of events.

Senate Documents, Vol. 2. Miscellaneous, 58 Congress, 2 Session, 1903-1904, No. 51, pp. 18-119.

Mr. Hay to Mr. Beaupré.

[Telegram.]

DEPARTMENT OF STATE,

Washington, June 9, 1903.

THE Colombian Government apparently does not appreciate the gravity of the situation. The canal negotiations were initiated by Colombia, and were energetically pressed upon this Government for several years. The propositions presented by Colombia; with slight modifications, were finally accepted by us. In virtue of this agreement our Congress reversed its previous judgment and decided upon the Panama route. If Colombia should now reject the treaty or unduly delay its ratification, the friendly understanding between the two

countries would be so seriously compromised that action might be taken by the Congress next winter which every friend of Colombia would regret. Confidential. Communicate substance of this verbally to the minister of foreign affairs. If he desires it, give him a copy in form of memorandum.

HAY.

.....

Mr. Beaupré to Mr. Hay.

[Telegram.]

UNITED STATES LEGATION,
Bogotá, July 5, 1903. (Received July 12, 1903.)

... the statement of just-arrived members of Congress from Panama that this department would revolt if the treaty is not ratified, caused alarm, and the effect is favorable. Unusual honors extended legation of the United States 4th of July.

BEAUPRÉ.

.....

Mr. Beaupré to Mr. Hay.

[Telegram.]

BOGOTÁ, *August 12, 1903. (Received 15.)*

August 12, 7 p.m. The treaty was rejected by the Senate to-day in its entirety...

BEAUPRÉ.

.....

Mr. Beaupré to Mr. Hay.

No. 186.]

LEGATION OF THE UNITED STATES,

Bogotá, October 21, 1903.

SIR: I have the honor to inform you that there is no disguising the alarm existing as to the possible action of the Government of the United States should the feeling of disaffection undoubtedly existing in the department of Panama find expression in overt acts...

.....

I am, sir, your obedient servant,

A. M. BEAUPRÉ.

.....

Mr. Beaupré to Mr. Hay.

[Telegram.]

BOGOTÁ, November 4, 1903.

(Received November 6, 1903, 5 p. m.)

Fourth, 5 p.m. Confidential. I have been shown telegram from reliable source in Panama to the effect that Isthmus is preparing for secession and that proclamation of independence may be expected soon. The particulars carefully guarded. Reliable information hard to obtain. This Government is evidently alarmed and troops are being sent to Isthmus. Repeat telegrams of importance from United States consul-general. His telegrams to me may be interfered with.

BEAUPRÉ.

Mr. Beaupré to Mr. Hay.

[Telegram.]

UNITED STATES LEGATION,

Bogotá, November 6, 1903.

(Received November 8, 11.05 p.m.)

November 6, 6 p.m. Knowing that the revolution has already commenced in Panama, ——— says that if the Government of the United States will land troops to preserve Colombian sovereignty and the transit, if requested by the Colombian chargé d'affaires, this Government will declare martial law, and by virtue of vested constitutional authority, when public order is disturbed, will approve by decree the ratification of the canal treaty as signed; or, if the Government of the United States prefers, will call extra session of Congress with new and friendly members next May to approve the treaty. . . There is a great reaction of public opinion in favor of the treaty, and it is considered certain that the treaty was not legally rejected by Congress. To-morrow martial law will be declared; 1000 troops will be sent from the Pacific side; about the same number from the Atlantic side. Please answer by telegraph.

BEAUPRÉ.

Mr. Hay to Mr. Beaupré.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 6, 1903.

The people of Panama having by an apparently unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence, and having adopted a government of their own, republican in form, with which the Government of the United States of America has entered into relations, the President of the United States, in accordance with the ties of friendship which have so long and so happily existed between the respective nations, most earnestly commends to the Governments of Colombia and of Panama the peaceable and equitable settlement of all questions at issue between them. He holds that he is bound, not merely by treaty obligations, but by the interests of civilization, to see that the peaceable traffic of the world across the Isthmus of Panama shall not longer be disturbed by a constant succession of unnecessary and wasteful civil wars.

HAY.

.....

A press bulletin having announced an outbreak on the Isthmus, the following cablegram was sent both to the consulate-general at Panama and the consulate at Colon:

DEPARTMENT OF STATE,

Washington, November 3, 1903.

(Sent 3.40 p.m.)

Uprising on Isthmus reported. Keep Department promptly and fully informed.

LOOMIS, *Acting.*

Mr. Ehrman to Mr. Hay.

PANAMA, *November 3, 1903.*

(Received 8.15 p.m.)

No uprising yet. Reported will be in the night. Situation is critical.

EHRMAN.

Mr. Ehrman to Mr. Hay.

[Telegram.]

PANAMA, *November 3, 1903.*

(Received 9.50 p.m.)

Uprising occurred to-night, 6; no bloodshed. Army and navy officials taken prisoners. Government will be organized to-night, consisting three consuls, also cabinet. Soldiers changed. Supposed same movement will be effected in Colon. Order prevails so far. Situation serious. Four hundred soldiers landed Colon to-day Barranquilla.

EHRMAN.

Mr. Loomis to Mr. Ehrman.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 3, 1903.

(Sent 11.18 p.m.)

Message sent to *Nashville* to Colon may not have been delivered. Accordingly see that following message is sent to *Nashville* immediately:

NASHVILLE, *Colon:*

In the interests of peace make every effort to prevent Government troops at Colon from proceeding to Panama. The transit of the Isthmus must be kept open and order maintained. Acknowledge. (Signed) DARLING, *Acting.*

Secure special train, if necessary. Act promptly.

LOOMIS, *Acting.*

.....

Mr. Ehrman to Mr. Hay.

[Telegram.]

PANAMA, *November 4, 1903.*

(Received 7.10 p.m.)

Mass meeting held. Independence publicly declared. Three consuls approved organize government, composed Federico Boyd, José Agustín Arango, Tomás Arias. *Bogotá* in sight.

EHRMAN.

Mr. Ehrman to Mr. Hay.

[Telegram.]

PANAMA, *November 4, 1903.*

(Received 9.50 a.m.)

Cables *Nashville* received. *Nashville* notified. Troops will not be moved. Last night gunboat *Bogota* fired several shells on city; one Chinaman killed. *Bogota* threatens bombard city to-day.

EHRMAN.

Mr. Ehrman to Mr. Hay.

[Telegram.]

PANAMA, *November 5, 1903.*

(Received 12.50 p.m.)

Received an official circular letter from the committee of the provisional government saying that on 4th political move occurred, and the Department of Panama withdraws from the Republic of the United States of Colombia and formed the Republic of Panama.

Requested to acknowledge the receipt of circular letter.

EHRMAN.

.....

Mr. Ehrman to Mr. Hay.

[Telegram.]

PANAMA, *November 6, 1903.*

(Received 11.55 a.m.)

The situation is peaceful. Isthmian movement has obtained so far success. Colon and interior provinces have enthusiastically joined independence. Not any Colombian soldiers known on isthmian soil at present. *Padilla* equipped to pursue *Bogota*. Bunau Varilla has been appointed officially confidential agent of the Republic of Panama at Washington.

EHRMAN.

Mr. Hay to Mr. Ehrman.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 6, 1903.

(Sent 12.51 p.m.)

The people of Panama have, by an apparently unanimous movement, dissolved their political connection with the Republic of Colombia and resumed their independence. When you are satisfied that a de facto government, republican in form, and without substantial opposition from its own people, has been established in the State of Panama, you will enter into relations with it as the responsible government of the territory and look to it for all due action to protect the persons and property of citizens of the United States and to keep open the isthmian transit in accordance with the obligations of existing treaties governing the relation of the United States to that territory.

Communicate above to Malmros, who will be governed by these instructions in entering into relations with the local authorities.

HAY.

.....

Mr. Ehrman to Mr. Hay.

[Telegram.]

PANAMA, *November 6, 1903.*

(Received 7.23 p.m.)

Filippe Bunau Varilla has been appointed extraordinary and minister plenipotentiary to the United States of America. Perfect quiet.

EHRMAN.

.....

[Telegram. — Translation.]

PANAMA, *November 4, 1903.*

(Received 8.45 p.m.)

SECRETARY OF STATE, *Washington:*

We take the liberty of bringing to the knowledge of your Government that on yesterday afternoon, in consequence of a popular and spontaneous movement of the people of this city, the independence of

the Isthmus was proclaimed and, the Republic of Panama being instituted, its provisional government organizes an (executive) board consisting of ourselves, who are assured of the military strength necessary to carry out our determination.

JOSÉ A. ARANGO.
FEDERICO BOYD.
TOMAS ARIAS.

.....

[Telegram. — Translation.]

PANAMA, *November 5, 1903.*
(Received 8.48 p.m.)

SECRETARY OF STATE, *Washington:*

We notify you that we have appointed Señor Philippe Bunau Varilla confidential agent of the Republic of Panama near your Government and Dr. Francisco V. de la Espriella minister of foreign affairs.

ARANGO.
BOYD.
ARIAS.

[Telegram. — Translation.]

PANAMA, *November 6, 1903.*
(Received 10.40 a.m.)

SECRETARY OF STATE, *Washington:*

Colon and all the towns of the Isthmus have adhered to the declaration of independence proclaimed in this city. The authority of the Republic of Panama is obeyed throughout its territory.

ARANGO.
ARIAS.
BOYD.

.....

Mr. Varilla to Mr. Hay.

[Translation.]

LEGATION OF THE REPUBLIC OF PANAMA,
Washington, November 11, 1903.

MR. SECRETARY OF STATE:

I have the very great honor to bring to your knowledge the fact that the Republic of Panama has designated me to fill, near the Government

of the United States of America, the post of envoy extraordinary and minister plenipotentiary with full powers to negotiate.

While begging you, Mr. Secretary of State, to transmit to His Excellency the President of the Republic of the United States the substance of the present communication, I venture to ask you to solicit from his kindness the appointment of a date on which he will authorize me to present to him my letters of credence.

I have, etc.,

P. BUNAU VARILLA.

Mr. Loomis to Mr. Varilla.

No. 1.]

DEPARTMENT OF STATE,
Washington, November 12, 1903.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, ..

.....

In reply I have the honor to say that the President will be pleased to receive you for the purpose mentioned to-morrow, Friday, at 9.30 a.m.

.....

Accept etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

REMARKS MADE BY THE MINISTER OF PANAMA.

MR. PRESIDENT: In according to the minister plenipotentiary of the Republic of Panama the honor of presenting to you his letters of credence you admit into the family of nations the weakest and the last born of the republics of the New World.

It owes its existence to the outburst of the indignant grief which stirred the hearts of the citizens of the Isthmus on beholding the despotic action which sought to forbid their country from fulfilling the destinies vouchsafed to it by Providence.

In consecrating its right to exist, Mr. President, you put an end to what appeared to be the interminable controversy as to the rival waterways, and you definitely inaugurate the era of the achievement of the Panama Canal.

From this time forth the determination of the fate of the canal depends upon two elements alone, now brought face to face, singularly

unlike as regards their authority and power, but wholly equal in their common and ardent desire to see at last the accomplishment of the heroic enterprise for piercing the mountain barrier of the Andes.

The highway from Europe to Asia, following the pathway of the sun, is now to be realized.

The early attempts to find such a way unexpectedly resulted in the greatest of all historic achievements, the discovery of America. Centuries have since rolled by, but the pathway sought has hitherto remained in the realm of dreams. To-day, Mr. President, in response to your summons, it becomes a reality.

232. THE PANAMA CANAL TREATY

Concluded November 18, 1903; proclaimed February 26, 1904.

Statutes at Large of the United States, Vol. 33, Treaties and Conventions, pp. 148-155.

ISTHMIAN CANAL CONVENTION.

THE United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, . . the high contracting parties have resolved for that purpose to conclude a convention. . .

.....

ARTICLE I.

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II.

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three

marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal. . .

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III.

The Republic of Panama grants to the United States all the rights, power and authority within the zone . . . described in Article II of this agreement . . . which the United States would possess . . . if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

.....

ARTICLE V.

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI.

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, . . All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, . . shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. . .

ARTICLE VII.

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon . . . the right to acquire . . . any lands, buildings, water rights or other properties necessary and convenient for the construction, . . . and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient. . . All such works of sanitation, . . . in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, . . . shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, . . .

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

.....

ARTICLE IX.

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, . . . or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal . . . or employed by the United States, . . . in connection with the construction,

maintenance, . . and protection of the main Canal, or auxiliary works, . . . except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

.....

ARTICLE XIV.

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars (\$250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

.....

ARTICLE XVIII.

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XIX.

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

.....

ARTICLE XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

ARTICLE XXIV.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, . .

.....

ARTICLE XXV.

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ARTICLE XXVI.

.....

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

JOHN HAY [SEAL.]
P. BUNAU-VARILLA [SEAL.]

233. THE NORTHERN SECURITIES DECISION

An economic tendency to consolidation of railroad control that might have united the railways of the country under a single will was checked in the following decision, handed down March 14, 1904.

Supreme Court Reports, 193 U. S. 197-360.

NORTHERN SECURITIES COMPANY

et al., Appts.,

v.

UNITED STATES

.....

MR. JUSTICE HARLAN...delivered the following opinion:

This suit was brought by the United States against the Northern Securities Company, .. the Great Northern Railway Company, .. the Northern Pacific Railway Company, .. James J. Hill, .. and William P. Clough, D. Willis James, John S. Kennedy, J. Pierpont Morgan, Robert Bacon, George F. Baker, and Daniel S. Lamont, ..

Its general object was to enforce, as against the defendants, the provisions of the statute of July 2d, 1890, commonly known as the anti-trust act, ..

.....

The Great Northern Railway Company and the Northern Pacific Railway Company owned, controlled, and operated separate lines of railway, .. The two lines, main and branches, about 9000 miles in length, were and are parallel and competing lines across the continent through the northern tier of states between the Great Lakes and the Pacific, ..

.....

Early in 1901 the Great Northern and Northern Pacific Railway Companies, having in view the ultimate placing of their two systems under a common control, united in the purchase of the capital stock of the Chicago, Burlington, & Quincy Railway Company, giving in payment, upon an agreed basis of exchange, the joint bonds of the Great Northern and Northern Pacific Railway Companies, payable in twenty years from date, with interest at 4 per cent per annum. . . By this pur-

chase of stock the Great Northern and Northern Pacific acquired full control of the Chicago, Burlington, & Quincy main line and branches.

Prior to November 13th, 1901, defendant Hill and associate stockholders of the Great Northern Railway Company, and defendant Morgan and associate stockholders of the Northern Pacific Railway Company, entered into a combination to form, under the laws of New Jersey, a *holding* corporation, to be called the Northern Securities Company, with a capital stock of \$400,000,000, and to which company, in exchange for its own capital stock upon a certain basis and at a certain rate, was to be turned over the capital stock, or a controlling interest in the capital stock, of each of the constituent railway companies, with power in the holding corporation to vote such stock and in all respects to act as the owner thereof, and to do whatever it might deem necessary in aid of such railway companies or to enhance the value of their stocks. In this manner the interests of individual stockholders in the property and franchises of the two independent and competing railway companies were to be converted into an interest in the property and franchises of the holding corporation. Thus, ..all inducement for competition between the two systems was to be removed, a virtual consolidation effected, and a monopoly of the interstate and foreign commerce formerly carried on by the two systems as independent competitors established.

In pursuance of this combination, and to effect its objects, the defendant, the Northern Securities Company, was organized November 13th, 1901, under the laws of New Jersey.

.....

In further pursuance of the combination, the Securities Company... at the time of the bringing of this suit, held, as owner and proprietor, substantially all the capital stock of the Northern Pacific Railway Company, and, it is alleged, a controlling interest in the stock of the Great Northern Railway Company, ..

.....

In our judgment, the evidence fully sustains the material allegations of the bill, and shows a violation of the act of Congress, in so far as it declares illegal every combination or conspiracy in restraint of commerce among the several states and with foreign nations, and forbids attempts to monopolize such commerce or any part of it.

Summarizing the principal facts, it is indisputable upon this record that under the leadership of the defendants Hill and Morgan the stock-

holders of the Great Northern and Northern Pacific Railway corporations, . . combined and conceived the scheme of organizing a corporation under the laws of New Jersey which should *hold* the shares of the stock of the constituent companies; . . that pursuant to such combination the Northern Securities Company was organized as the holding corporation . . . and under that scheme such holding corporation has become the holder . . . of more than nine tenths of the stock of the Northern Pacific, and more than three fourths of the stock of the Great Northern, . . The stockholders of these two competing companies disappeared, as such, for the moment, but immediately reappeared as stockholders of the holding company, which was thereafter to guard the interests of both sets of stockholders as a unit, and to manage, or cause to be managed, both lines of railroad as if held *in one ownership*. . . Those who were stockholders of the Great Northern and Northern Pacific and became stockholders in the holding company are now interested in preventing all competition between the two lines, and, as owners of stock or of certificates of stock in the holding company, they will see to it that no competition is tolerated. . . No scheme or device could more certainly come within the words of the act, — “combination in the form of a trust or otherwise . . . in restraint of commerce among the several states or with foreign nations,” — or could more effectively and certainly suppress free competition between the constituent companies. This combination is, within the meaning of the act, a “trust;” but if not, it is a *combination in restraint of interstate and international commerce*; and that is enough to bring it under the condemnation of the act. . .

.....

That . . . the act of Congress known as the anti-trust act . . . does embrace and declare to be illegal every contract, combination, or conspiracy, in whatever form, of whatever nature, and whoever may be parties to it, which directly or necessarily operates *in restraint* of trade or commerce *among the several states or with foreign nations*;

That the act is not limited to restraints of . . . trade . . . that are unreasonable in their nature, but embraces *all* direct *restraints* imposed by any combination, conspiracy, or monopoly upon such trade or commerce;

That railroad carriers engaged in interstate or international trade or commerce are embraced by the act;

.....

That *every* combination or conspiracy which would extinguish competition between otherwise competing railroads engaged in *interstate*

trade or commerce, and which would *in that way* restrain *such* trade or commerce, is made illegal by the act;

That the natural effect of competition is to increase commerce, and an agreement whose direct effect is to prevent this play of competition restrains instead of promoting trade and commerce;

... and,

That under its power to regulate commerce among the several states and with foreign nations, Congress had authority to enact the statute in question.

.....

... What the government particularly complains of — indeed, all that it complains of here — is the existence of a combination among the stockholders of competing railroad companies which, in violation of the act of Congress, restrains interstate and international commerce through the agency of a common corporate trustee, designated to act for both companies in repressing free competition between them. Independently of any question of the mere ownership of stock or of the organization of a state corporation, can it in reason be said that such a combination is not embraced by the very terms of the anti-trust act? May not Congress declare that *combination* to be illegal? ..

.....

... If a state may strike down combinations that restrain its domestic commerce by destroying free competition among those engaged in such commerce, what power, except that of Congress, is competent to protect the freedom of interstate and international commerce when assailed by a combination that restrains such commerce by stifling competition among those engaged in it?

Now, the court is asked to adjudge that, if held to embrace the case before us, the anti-trust act is repugnant to the Constitution of the United States. In this view we are unable to concur. The contention of the defendants could not be sustained without, in effect, overruling the prior decisions of this court as to the scope and validity of the anti-trust act. . .

.....

It was said in argument that the circumstances under which the Northern Securities Company obtained the stock of the constituent companies imported simply an investment in the stock of other corporations, — a purchase of that stock; which investment or purchase, it is contended, was not forbidden by the charter of the company, and could

not be made illegal by any act of Congress. This view is wholly fallacious, and does not comport with the actual transaction. There was no actual investment, in any substantial sense, by the Northern Securities Company in the stock of the two constituent companies. . . However that company may have acquired for itself any stock in the Great Northern and Northern Pacific Railway Companies, no matter how it obtained the means to do so, all the stock it held or acquired in the constituent companies was acquired and held to be used in suppressing competition between those companies. It came into existence only for that purpose. . .

.....

By the decree in the circuit court it was found and adjudged that the defendants had entered into a combination or conspiracy in restraint of trade or commerce among the several states, such as the act of Congress denounced as illegal; . . It was therefore decreed as follows: "That the Northern Securities Company, . . be and they are hereby enjoined from acquiring, or attempting to acquire, further stock of either of the aforesaid railway companies; that the Northern Securities Company be enjoined from voting the aforesaid stock which it now holds or may acquire, . . and from exercising or attempting to exercise any control, direction, supervision, or influence whatsoever over the acts and doings of said railways companies, or either of them, by virtue of its holding such stock therein; that the Northern Pacific Railway Company and the Great Northern Railway Company, . . be and they are hereby respectively and collectively enjoined from permitting the stock aforesaid to be voted by the Northern Securities Company . . at any corporate election for directors or officers of either of the aforesaid railway companies; that they, . . be likewise enjoined and respectively restrained from paying any dividends to the Northern Securities Company on account of stock in either of the aforesaid railway companies, . . and that the aforesaid railway companies, . . be enjoined from permitting or suffering the Northern Securities Company . . to exercise any control whatsoever over the corporate acts of either of the aforesaid railway companies. . .

.....

... it is manifest that if the anti-trust act is held not to embrace a case such as is now before us, the plain intention of the legislative branch of the government will be defeated. If Congress has not, by the words used in the act, described this and like cases, it would, we apprehend, be impossible to find words that would describe them. . .

The judgment of the court is that the decree below be and hereby is affirmed, with liberty to the Circuit Court to proceed in the execution of its decree as the circumstances may require.

Affirmed.

234. ROOSEVELT'S COROLLARY TO THE MONROE DOCTRINE

In his annual message of December 6, 1904, President Roosevelt laid down the following enlarged statement of the policy of the United States under the Monroe Doctrine.

Foreign Relations of the United States, 1904, pp. XLI-XLVIII.
Washington, 1905.

.....

IT is not true that the United States feels any land hunger or entertains any projects as regards the other nations of the Western Hemisphere save such as are for their welfare. All that this country desires is to see the neighboring countries stable, orderly, and prosperous. Any country whose people conduct themselves well can count upon our hearty friendship. If a nation shows that it knows how to act with reasonable efficiency and decency in social and political matters, if it keeps order and pays its obligations, it need fear no interference from the United States. Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power. If every country washed by the Caribbean Sea would show the progress in stable and just civilization which with the aid of the Platt amendment Cuba has shown since our troops left the island, and which so many of the republics in both Americas are constantly and brilliantly showing, all question of interference by this Nation with their affairs would be at an end. Our interests and those of our southern neighbors are in reality identical. They have great natural riches, and if within their borders the reign of law and justice obtains, prosperity is sure to come to them. While they thus obey the primary laws of civilized society they may rest assured that they will be treated by us in a spirit of cordial and helpful sympathy. We would interfere with them only in the last resort, and then only if it became evident that their inability or unwillingness to

do justice at home and abroad had violated the rights of the United States or had invited foreign aggression to the detriment of the entire body of American nations. It is a mere truism to say that every nation, whether in America or anywhere else, which desires to maintain its freedom, its independence, must ultimately realize that the right of such independence can not be separated from the responsibility of making good use of it.

.....

THEODORE ROOSEVELT.

THE WHITE HOUSE,

December 6, 1904.

235. RETURN OF EXCESS INDEMNITY TO CHINA

Foreign Relations of the United States, 1907, *Part 1*, pp. 174-176. *Washington, 1910.*

The Secretary of State to the Chinese Minister.

DEPARTMENT OF STATE,

Washington, June 15, 1907.

SIR: After the rescue of the foreign legations in Peking during the Boxer troubles of 1900, the note of the powers to China prescribing the conditions upon which the occupation of Peking and the Province of Chihli would be ended, dated December 22, 1900, required in its sixth article the payment of "equitable indemnities for governments, . . and private individuals, as well as for Chinese who have suffered during the late events in person or in property in consequence of their being in the service of foreigners."

The final protocol under which the troops were withdrawn, . . fixed the amount of this indemnity at \$450,000,000 Haikwan taels, equivalent in round numbers to \$333,000,000 United States gold. . .

The share of this indemnity allotted to the United States was \$24,440,778.81, and on account of the principal and interest of that sum China has paid to the United States, down to and including the 1st day of June, 1907, the sum of \$6,010,931.91.

It was from the first the intention of this Government at the proper time, when all claims should have been presented and all expenses should have been ascertained as fully as possible, to revise the estimate and account against which these payments were to be made, and, as

proof of sincere friendship for China, to voluntarily release that country from its legal liability for all payments in excess of the sum which should prove to be necessary for actual indemnity to the United States and its citizens.

Such a revision has now been made by the different executive departments concerned, and I am authorized by the President to say that, in pursuance of that revision, at the next session of the Congress he will ask for authority to reform the agreement with China under which the indemnity is fixed by remitting and cancelling the obligation of China for the payment of all that part of the stipulated indemnity which is in excess of the sum of \$11,655,492.69 and interest at the stipulated rate.

Accept, Mr. Minister, etc.

ELIHU ROOT.

The Chinese Minister to the Secretary of State.

IMPERIAL CHINESE LEGATION,

Washington, June 17, 1907.

SIR: I have the honor to acknowledge the receipt of your valued note of the 15th instant, in which, by authority of the President, you inform me . . . that, . . . the President, at the next session of the Congress, will ask for authority to reform the agreement with China under which the indemnity is fixed, by remitting and canceling the obligation of China, for the payment of all that part of the stipulated indemnity which is in excess of the sum of \$11,655,492.69 and interest at the stipulated rate of 4 per cent per annum.

I have lost no time in communicating by cable to my Government the welcome information with the request that it be laid immediately before the Emperor.

I take this first opportunity to express to you the grateful thanks of my Government for this signal act of generosity shown by the United States toward China, which can not fail to bind the two countries into closer and more friendly relations, and which affords another conspicuous proof of the high sense of justice that has always actuated the Government of the United States in its intercourse with China.

Accept, etc.,

CHENTUNG LIANG-CHENG.

.....

The Wai-wu Pu to the Chinese Minister.

[Translation.]

PEKING, June 24, 1907.

Your telegraphic report on the remission of the indemnity having been laid before the Emperor, you are commanded to convey to the President of the United States His Majesty's warm thanks for this noble exhibition of his friendship toward China, which is deeply and gratefully appreciated, by having alone taken the lead in a matter of international justice.

236. THE RECALL

The recall was a stock device among political reformers of the early 20th century for increasing popular control of government by allowing the people of the state to remove from office public officials in whom they had lost confidence. The recall amendment from the constitution of Oregon is here given.

June 1, 1908

ARTICLE II—SUFFRAGE AND ELECTIONS

.....

SECTION 18. Every public officer in Oregon is subject, as herein provided, to recall by the legal voters of the state or of the electoral district from which he is elected. There may be required 25 per cent, but not more, of the number of electors who voted in his district at the preceding election for justice of the supreme court to file their petition demanding his recall by the people. They shall set forth in said petition the reasons for said demand. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy shall be filled as may be provided by law. If he shall not resign within five days after the petition is filed, a special election shall be ordered to be held within 20 days in his said electoral district to determine whether the people will recall said officer. On the sample ballot at said election shall be printed in not more than 200 words, the reasons for demanding the recall of said officer as set forth in the recall petition, and in not more than 200 words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the

result of said special election shall be officially declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed, or another. The recall petition shall be filed with the officer with whom a petition for nomination to such office should be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated against any officer until he has actually held his office six months, save and except that it may be filed against a senator or representative in the legislative assembly at any time after five days from the beginning of the first session after his election. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected unless such further petitioners shall first pay into the public treasury, which has paid such special election expenses, the whole amount of its expenses for the preceding special election. Such additional legislation as may aid the operation of this section shall be provided by the legislative assembly, including provision for payment by the public treasury of the reasonable special election campaign expenses of such officer. But the words, "the legislative assembly shall provide," or any similar or equivalent words in this constitution or any amendment thereto, shall not be construed to grant to the legislative assembly any exclusive power of law-making nor in any way to limit the initiative and referendum powers reserved by the people.

237. LODGE AMENDMENT TO MONROE DOCTRINE
AUGUST 2, 1912

Congressional Record, 62 Congress, 2 session, Part 10, p. 10045.

FOREIGN OCCUPATIONS ON AMERICAN
CONTINENTS.

THE PRESIDENT pro tempore. There is a resolution coming over from a former day which is now in order. It will be read.

The Secretary read Senate resolution 371, submitted by Mr. LODGE on the 31st ultimo, as follows:

Resolved, That when any harbor or other place in the American continents is so situated that the occupation thereof for naval or military purposes might threaten the communications or the safety of the United States, the Govern-

ment of the United States could not see without grave concern the possession of such harbor or other place by any corporation or association which has such a relation to another Government, not American, as to give that Government practical power of control for national purposes.

238. THE SIXTEENTH AMENDMENT

Passed in July, 1909, by both houses of Congress. Declared in force February 25, 1913.

Statutes at Large of the United States, Vol. 37, 62 Congress, 3 session, Proclamations, p. 109.

ARTICLE XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

239. THE SEVENTEENTH AMENDMENT

Passed Congress May 14, 1912. Declared in force May 31, 1913.

Statutes at Large of the United States, 1913, 63 Congress 1 session, Proclamations, p. 49.

ARTICLE 17

THE Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

240. NEWLANDS CONCILIATION ACT

Approved July 15, 1913; intended to obviate the tying-up of our transportation by strikes.

Statutes at Large of the United States, Vol. 38, Public Laws, pp. 103-108.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act shall apply to any common carrier or carriers . . . except masters of vessels and seamen, . . . engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, for a continuous carriage or shipment from one State or Territory of the United States . . . to any other State or Territory . . . or the District of Columbia, or from any place in the United States to an adjacent foreign country, . . .

.....

The term "employees" as used in this Act shall include all persons actually engaged in any capacity in train operation or train service of any description, . . .

A common carrier subject to the provisions of this Act is hereinafter referred to as an "employer," and the employees of one or more of such carriers are hereinafter referred to as "employees."

SEC. 2. That whenever a controversy . . . shall arise between an employer . . . and employees subject to this Act interrupting or threatening to interrupt the business of said employer . . . to the serious detriment of the public interest, either party to such controversy may apply to the Board of Mediation and Conciliation created by this Act and invoke its services for the purpose of bringing about an amicable adjustment of the controversy; and . . . the said board . . . shall use its best efforts, by mediation and conciliation, to bring them to an agreement; and if such efforts . . . shall be unsuccessful, the said board shall at once endeavor to induce the parties to submit their controversy to arbitration in accordance with the provisions of this Act.

In any case in which an interruption of traffic is imminent and fraught with serious detriment to the public interest, the Board of Mediation and Conciliation may, if in its judgment such action seem desirable, proffer its services to the respective parties to the controversy.

.....

SEC. 3. That whenever a controversy shall arise between an employer or employers and employees subject to this Act, which can not be settled through mediation and conciliation in the manner provided in the preceding section, such controversy may be submitted to the arbitration of a board of six, or, if the parties to the controversy prefer

to so stipulate, to a board of three persons, which board shall be chosen in the following manner: In the case of a board of three, the employer . . . and the employees, . . shall each name one arbitrator; and the two arbitrators thus chosen shall select the third arbitrator; but in the event of their failure to name the third arbitrator within five days after their first meeting, such third arbitrator shall be named by the Board of Mediation and Conciliation. In the case of a board of six, the employer . . . and the employees, . . shall each name two arbitrators, and the four arbitrators thus chosen shall, by a majority vote, select the remaining two arbitrators; but in the event of their failure to name the two arbitrators within fifteen days after their first meeting the said two arbitrators, or as many of them as have not been named, shall be named by the Board of Mediation and Conciliation.

In the event that the employees engaged in any given controversy are not members of a labor organization, such employees may select a committee which shall have the right to name the arbitrator, or the arbitrators, who are to be named by the employees as provided above in this section.

SEC. 4. That the agreement to arbitrate —

First. Shall be in writing;

Second. Shall stipulate that the arbitration is had under the provisions of this Act;

Third. Shall state whether the board of arbitration is to consist of three or six members;

Fourth. Shall be signed by duly accredited representatives of the employer or employers and of the employees;

Fifth. Shall state specifically the questions to be submitted to the said board for decision;

Sixth. Shall stipulate that a majority of said board shall be competent to make a valid and binding award;

Seventh. Shall fix a period from the date of the appointment of the arbitrator or arbitrators necessary to complete the board, as provided for in the agreement, within which the said board shall commence its hearings;

Eighth. Shall fix a period from the beginning of the hearings within which the said board shall make and file its award: *Provided*, That this period shall be thirty days unless a different period be agreed to;

Ninth. Shall provide for the date from which the award shall become effective and shall fix the period during which the said award shall continue in force;

Tenth. Shall provide that the respective parties to the award will each faithfully execute the same;

Eleventh. Shall provide that the award and the papers and proceedings, including the testimony relating thereto, certified under the hands of the arbitrators, and which shall have the force and effect of a bill of exceptions, shall be filed in the clerk's office of the district court of the United States for the district wherein the controversy arises or the arbitration is entered into, and shall be final and conclusive upon the parties to the agreement unless set aside for error of law apparent on the record;

.....

SEC. 8. That the award, being filed in the clerk's office of a district court of the United States as hereinbefore provided, shall go into practical operation, and judgment shall be entered thereon accordingly at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent upon the record, in which case said award shall go into practical operation, and judgment be entered accordingly, when such exceptions shall have been finally disposed of either by said district court or on appeal therefrom.

At the expiration of ten days from the decision of the district court upon exceptions taken to said award as aforesaid judgment shall be entered in accordance with said decision, unless during said ten days either party shall appeal therefrom to the circuit court of appeals. . .

The determination of said circuit court of appeals upon said questions shall be final, and, being certified by the clerk thereof to said district court, judgment pursuant thereto shall thereupon be entered by said district court.

.....

Nothing in this Act contained shall be construed to require an employee to render personal service without his consent, and no injunction or other legal process shall be issued which shall compel the performance by any employee against his will of a contract for personal labor or service.

.....

Approved, July 15, 1913.

241. THE FEDERAL RESERVE ACT

The Federal Reserve Act, passed December 23, 1913, completed a financial reorganization of the United States by recognizing the close connection between the circulating medium and business transactions.

In effect it organized the more important banks of the country in Federal Reserve Associations which have the power by rediscount to regulate the interest rate and to increase the national bank note currency almost at will. The system allows of almost unlimited inflation of the currency as was demonstrated during the World War.

Statutes at Large of the United States, Vol. 38, Public Laws, pp. 251-275.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, . .

.....

FEDERAL RESERVE DISTRICTS.

SEC. 2. As soon as practicable, the Secretary of the Treasury, the Secretary of Agriculture and the Comptroller of the Currency, acting as "The Reserve Bank Organization Committee," shall designate not less than eight nor more than twelve cities to be known as Federal reserve cities, and shall divide the continental United States, excluding Alaska, into districts, each district to contain only one of such Federal reserve cities. . . Such districts shall be known as Federal reserve districts and may be designated by number. . .

. . . The said committee shall supervise the organization in each of the cities designated of a Federal reserve bank, which shall include in its title the name of the city in which it is situated, as "Federal Reserve Bank of Chicago."

Under regulations to be prescribed by the organization committee, every national banking association in the United States is hereby required, and every eligible bank in the United States and every trust company within the District of Columbia, is hereby authorized to signify in writing, within sixty days after the passage of this Act, its acceptance of the terms and provisions hereof. When the organization committee shall have . . . fixed the geographical limits of the Federal reserve districts, every national banking association within that district shall be required within thirty days after notice from the organization committee, to subscribe to the capital stock of such Federal reserve bank in a sum equal to six per centum of the paid-up capital stock and surplus of such bank, . . said payments to be in gold or gold certificates.

The shareholders of every Federal reserve bank shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent

of the amount of their subscriptions to such stock at the par value thereof in addition to the amount subscribed, ..

Any national bank failing to signify its acceptance of the terms of this Act within the sixty days aforesaid, shall cease to act as a reserve agent, upon thirty days' notice, to be given within the discretion of the said organization committee or of the Federal Reserve Board.

.....

No Federal reserve bank shall commence business with a subscribed capital less than \$4,000,000. . .

BRANCH OFFICES.

SEC. 3. Each Federal reserve bank shall establish branch banks within the Federal reserve district in which it is located and may do so in the district of any Federal reserve bank which may have been suspended. . .

.....

SEC. 4.

.....

When the minimum amount of capital stock prescribed by this Act for the organization of any Federal reserve bank shall have been subscribed and allotted, the organization committee shall designate any five banks of those whose applications have been received, to execute a certificate of organization, ..

.....

Upon the filing of such certificate with the Comptroller of the Currency as aforesaid, the said Federal reserve bank shall become a body corporate and as such, ..shall have power . . .

.....

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

.....

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Comptroller of the Currency circulating notes in blank, ..as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be

issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal reserve bank.

.....

SEC. 9. Any bank incorporated by special law of any State, . . may make application to the reserve bank organization committee, pending organization, and thereafter to the Federal Reserve Board for the right to subscribe to the Stock of the Federal reserve bank organized or to be organized within the Federal reserve district where the applicant is located. The organization committee or the Federal Reserve Board, . . may permit the applying bank to become a stockholder in the Federal reserve bank of the district in which the applying bank is located. . .

.....

Any bank becoming a member of a Federal reserve bank under the provisions of this section shall, in addition to the regulations and restrictions hereinbefore provided, be required to conform to the provisions of law imposed on the national banks respecting the limitation of liability which may be incurred by any person, firm, or corporation to such banks, the prohibition against making purchase of or loans on stock of such banks, and the withdrawal or impairment of capital, or the payment of unearned dividends, and to such rules and regulations as the Federal Reserve Board may, in pursuance thereof, prescribe.

.....

FEDERAL RESERVE BOARD.

SEC. 10. A Federal Reserve Board is hereby created which shall consist of seven members, including the Secretary of the Treasury and the Comptroller of the Currency, who shall be members *ex officio*, and five members appointed by the President of the United States, by and with the advice and consent of the Senate. . .

The members of said board, the Secretary of the Treasury, the Assistant Secretaries of the Treasury, and the Comptroller of the Currency shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank. Of the five members thus appointed by the President at least two shall be persons experienced in banking or finance. One shall be designated by the President to serve for two, one for four, one

for six, one for eight, and one for ten years, and thereafter each member so appointed shall serve for a term of ten years unless sooner removed for cause by the President. Of the five persons thus appointed, one shall be designated by the President as governor and one as vice governor of the Federal Reserve Board. The governor of the Federal Reserve Board, subject to its supervision, shall be the active executive officer. . .

.....

SEC. 11. The Federal Reserve Board shall be authorized and empowered:

(a) To examine at its discretion the accounts, books and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. . .

.....

(j) To exercise general supervision over said Federal reserve banks.

.....

POWERS OF FEDERAL RESERVE BANKS.

SEC. 13. Any Federal reserve bank may receive from any of its member banks, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks and drafts upon solvent member banks; . . or . . . may receive from other Federal reserve banks deposits of current funds. . .

Upon the indorsement of any of its member banks, . . any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; . . Nothing in this Act contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. . .

.....

GOVERNMENT DEPOSITS.

SEC. 15. The moneys held in the general fund of the Treasury, except the five per centum fund for the redemption of outstanding

national-bank notes and the funds provided in this Act for the redemption of Federal reserve notes may, upon the direction of the Secretary of the Treasury, be deposited in Federal reserve banks, which banks, when required by the Secretary of the Treasury, shall act as fiscal agents of the United States; and the revenues of the Government or any part thereof may be deposited in such banks, and disbursements may be made by checks drawn against such deposits.

No public funds of the Philippine Islands, or of the postal savings, or any Government funds, shall be deposited in the continental United States in any bank not belonging to the system established by this Act: *Provided, however*, That nothing in this Act shall be construed to deny the right of the Secretary of the Treasury to use member banks as depositories.

NOTE ISSUES.

SEC. 16. Federal reserve notes, to be issued at the discretion of the Federal Reserve Board for the purpose of making advances to Federal reserve banks through the Federal reserve agents as hereinafter set forth and for no other purpose, are hereby authorized. The said notes shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in gold on demand at the Treasury Department of the United States, in the city of Washington, District of Columbia, or in gold or lawful money at any Federal reserve bank.

Any Federal reserve bank may make application to the local Federal reserve agent for such amount of the Federal reserve notes hereinbefore provided for as it may require. Such application shall be accompanied with a tender to the local Federal reserve agent of collateral in amount equal to the sum of the Federal reserve notes thus applied for and issued pursuant to such application. . . The said Federal Reserve Board may at any time call upon a Federal reserve bank for additional security to protect the Federal reserve notes issued to it.

Every Federal reserve bank shall maintain reserves in gold or lawful money of not less than thirty-five per centum against its deposits and reserves in gold of not less than forty per centum against its Federal reserve notes in actual circulation, and not offset by gold or lawful money deposited with the Federal reserve agent. . .

The Federal Reserve Board shall require each Federal reserve bank to maintain on deposit in the Treasury of the United States a sum in gold sufficient in the judgment of the Secretary of the Treasury for

the redemption of the Federal reserve notes issued to such bank, but in no event less than five per centum; but such deposit of gold shall be counted and included as part of the forty per centum reserve hereinbefore required. The board shall have the right . . . to grant in whole or in part or to reject entirely the application of any Federal reserve bank for Federal reserve notes; but to the extent that such application may be granted the Federal Reserve Board shall, . . . supply Federal reserve notes to the bank so applying, and such bank shall be charged with the amount of such notes and shall pay such rate of interest on said amount as may be established by the Federal Reserve Board, and the amount of such Federal reserve notes so issued to any such bank shall, upon delivery, together with such notes of such Federal reserve bank as may be issued under section eighteen of this Act upon security of United States two per centum Government bonds, become a first and paramount lien on all the assets of such bank.

Any Federal reserve bank may at any time reduce its liability for outstanding Federal reserve notes by depositing, with the Federal reserve agent, its Federal reserve notes, gold, gold certificates, or lawful money of the United States. Federal reserve notes so deposited shall not be reissued, except upon compliance with the conditions of an original issue.

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LOANS ON FARM LANDS.

SEC. 24. Any national banking association not situated in a central reserve city may make loans secured by improved and unencumbered farm land, situated within its Federal reserve district, but no such loan shall be made for a longer time than five years, nor for any amount exceeding fifty per centum of the actual value of the property offered as security. . .

.....

Approved, December 23, 1913.

242. PROCLAMATION OF NEUTRALITY

At the outbreak of the World War, the following proclamation, dated August 4, 1914, defined the American policy of neutrality.

Statutes at Large of the United States, Vol. 38, Proclamations, pp. 63-66.

By the President of the United States of America,

A PROCLAMATION.

WHEREAS a state of war unhappily exists between Austria-Hungary and Servia and between Germany and Russia and between Germany and France; And Whereas the United States is on terms of friendship and amity with the contending powers, and with the persons inhabiting their several dominions;

.....

Now, Therefore, I, Woodrow Wilson, President of the United States of America, in order to preserve the neutrality of the United States and of its citizens and of persons within its territory and jurisdiction, and to enforce its laws and treaties, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from any violation of the same, do hereby declare and proclaim that by certain provisions of the act approved on the 4th day of March, A.D. 1909, commonly known as the "Penal Code of the United States" the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to-wit:—

1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.
2. Enlisting or entering into the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.
3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.
4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

.....

... (But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board

such vessel of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, .. any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

10. Increasing or augmenting, .. the force of any ship of war, .. in the service of either of the said belligerents, or belonging to the subjects of either. . .

11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of a belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observation upon the ships of war or privateers or merchant vessels of a belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this government to observe; .. If any ship of war or privateer of a belligerent shall, after the time this notification takes effect, enter any port, .. or waters of the United States, such vessel shall be required . . . to put to sea within twenty-four hours after her entrance into such port, .. or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew, or for repairs; in any of which cases the authorities of the port or of the nearest port (as the case may be) shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; .. No ship of war or privateer of a belligerent shall be permitted, while in any port, .. or waters within the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel, .. to the nearest port of her own country; ..

And I do further declare and proclaim that the statutes and the treaties of the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States,

shall take part, directly or indirectly, in the said wars, but shall remain at peace with all of the said belligerents, and shall maintain a strict and impartial neutrality.

And I do hereby enjoin all citizens of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes or treaties or in violation of the law of nations in that behalf.

And I do hereby warn all citizens of the United States, and all persons residing or being within its territory or jurisdiction that, while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of a belligerent can not lawfully be originated or organized within its jurisdiction; and that, while all persons may lawfully and without restriction by reason of the aforesaid state of war manufacture and sell within the United States arms and munitions of war, and other articles ordinarily known as "contraband of war," yet they cannot carry such articles upon the high seas for the use or service of a belligerent, nor can they transport soldiers and officers of a belligerent, or attempt to break any blockade which may be lawfully established and maintained during the said wars without incurring the risk of hostile capture and the penalties denounced by the law of nations in that behalf.

And I do hereby give notice that all citizens of the United States and others who may claim the protection of this government, who may misconduct themselves in the premises, will do so at their peril, and that they can in no wise obtain any protection from the government of the United States against the consequences of their misconduct.

In Witness Whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fourth day of August in the year of our Lord one thousand nine hundred and fourteen
[SEAL.] and of the independence of the United States of America the one hundred and thirty-ninth.

WOODROW WILSON.

By the President:

WILLIAM JENNINGS BRYAN

Secretary of State

243. THE TRADE COMMISSION ACT

The following act embodies the policy of the Wilson administration in dealing with big business. It was approved September 26, 1914.

Statutes at Large of the United States, Vol. 38, Public Laws, pp. 717-724.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission is hereby created and established, to be known as the Federal Trade Commission (hereinafter referred to as the commission), which shall be composed of five commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. Not more than three of the commissioners shall be members of the same political party. The first commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from the date of the taking effect of this Act, the term of each to be designated by the President, but their successors shall be appointed for terms of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. The commission shall choose a chairman from its own membership. . .

.....

SEC. 3. That upon the organization of the commission and election of its chairman, the Bureau of Corporations and the offices of Commissioner and Deputy Commissioner of Corporations shall cease to exist; and all pending investigations and proceedings of the Bureau of Corporations shall be continued by the commission.

.....

SEC. 5. That unfair methods of competition in commerce are hereby declared unlawful.

The commission is hereby empowered and directed to prevent persons, partnerships, or corporations, except banks, and common carriers subject to the Acts to regulate commerce, from using unfair methods of competition in commerce.

Whenever the commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition in commerce, . . it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect, and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said

complaint. The person, partnership, or corporation so complained of shall have the right to appear at the place and time so fixed and show cause why an order should not be entered by the commission requiring such person, partnership, or corporation to cease and desist from the violation of the law so charged in said complaint. . . If upon such hearing the commission shall be of the opinion that the method of competition in question is prohibited by this Act, it shall make a report in writing in which it shall state its findings as to the facts, and shall issue and cause to be served on such person, partnership, or corporation an order requiring such person, partnership, or corporation to cease and desist from using such method of competition. . .

If such person, partnership, or corporation fails or neglects to obey such order of the commission while the same is in effect, the commission may apply to the circuit court of appeals of the United States, within any circuit where the method of competition in question was used or where such person, partnership, or corporation resides or carries on business, for the enforcement of its order, and shall certify and file with its application a transcript of the entire record in the proceeding, including all the testimony taken and the report and order of the commission. Upon such filing of the application and transcript the court . . . shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree affirming, modifying, or setting aside the order of the commission. The findings of the commission as to the facts, if supported by testimony, shall be conclusive. . . The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section two hundred and forty of the Judicial Code.

Any party required by such order of the commission to cease and desist from using such method of competition may obtain a review of such order in said circuit court of appeals by filing in the court a written petition praying that the order of the commission be set aside. A copy of such petition shall be forthwith served upon the commission, and thereupon the commission forthwith shall certify and file in the court a transcript of the record as hereinbefore provided. Upon the filing of the transcript the court shall have the same jurisdiction to affirm, set aside, or modify the order of the commission as in the case of an application by the commission for the enforcement of its order, and the findings of the commission as to the facts, if supported by testimony, shall in like manner be conclusive.

The jurisdiction of the circuit court of appeals of the United States

to enforce, set aside, or modify orders of the commission shall be exclusive.

Such proceedings in the circuit court of appeals shall be given precedence over other cases pending therein, and shall be in every way expedited. No order of the commission or judgment of the court to enforce the same shall in any wise relieve or absolve any person, partnership, or corporation from any liability under the anti-trust acts.

Complaints, orders, and other processes of the commission under this section may be served by anyone duly authorized by the commission, either (a) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (b) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (c) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said service shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 6. That the commission shall also have power —

(a) To gather and compile information concerning, and to investigate . . . the organization, business, conduct, practices, and management of any corporation engaged in commerce, excepting banks and common carriers subject to the Act to regulate commerce, and its relation to other corporations and to individuals, associations, and partnerships.

(b) To require, . . . corporations engaged in commerce, excepting banks, and common carriers subject to the Act to regulate commerce, . . . to file with the commission in such form as the commission may prescribe . . . reports . . . in writing to specific questions, furnishing to the commission such information as it may require as to the organization, business, conduct, practices, management, and relation to other corporations, partnerships, and individuals of the respective corporations. . .

(c) Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the anti-trust Acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, . . . it . . . shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any

such investigation, and the report shall be made public in the discretion of the commission.

(d) Upon the direction of the President or either House of Congress to investigate and report the facts relating to any alleged violations of the anti-trust Acts by any corporation.

.....

(h) To investigate, from time to time, trade conditions in and with foreign countries where associations, combinations, or practices of manufacturers, merchants, or traders, or other conditions, may affect the foreign trade of the United States, and to report to Congress thereon, with such recommendations as it deems advisable.

.....

Approved, September 26, 1914.

244. CLAYTON ANTI-TRUST ACT

The Sherman Anti-Trust Act had been applied, contrary in all probability to the intention of its framers, to trade unions. The Clayton Anti-Trust Law approved October 15, 1914, passed under the Wilson administration, was intended to obviate this interpretation.

Statutes at Large of the United States, Vol. 38, Public Laws, pp. 730-740.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, ..

.....

SEC. 2. That it shall be unlawful for any person engaged in commerce, .. to discriminate in price between different purchasers of commodities, which commodities are sold for use, .. or resale within the United States ... or other place under the jurisdiction of the United States, where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly in any line of commerce: ..

SEC. 3. That it shall be unlawful for any person engaged in commerce, .. to lease or make a sale or contract for sale of goods, .. machinery, supplies, or other commodities, .. for use, .. or resale within the United States ... or other place under the jurisdiction of the United States, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, .. that the lessee or purchaser thereof shall

not use or deal in the goods, .. machinery, supplies or other commodities of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for sale or such condition, .. may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

.....

SEC. 6. That the labor of a human being is not a commodity or article of commerce. Nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade, under the anti-trust laws.

SEC. 7. That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

.....

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition ...

.....

SEC. 8. That from and after two years from the date of the approval of this Act no person shall at the same time be a director or other officer or employee of more than one bank, banking association or trust company, organized or operating under the laws of the United States, either of which has deposits, capital, surplus, and undivided profits aggregating more than \$5,000,000; and no private banker or person who is a director in any bank or trust company, organized and operating under the laws of a State, having deposits, capital, surplus, and undivided profits aggregating more than \$5,000,000, shall be eligible to be a director in any bank or banking association organized or operating under the laws of the United States. . .

No bank, .. or trust company, organized ... under the laws of the United States, in any city ... of more than two hundred thousand

inhabitants, as shown by the last preceding decennial census of the United States, shall have as a director or other officer or employee any private banker or any director or other officer or employee of any other bank, banking association or trust company located in the same place:..

That from and after two years from the date of the approval of this Act no person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than \$1,000,000, engaged in whole or in part in commerce, other than banks, banking associations, trust companies and common carriers subject to the Act to regulate commerce, approved February fourth, eighteen hundred and eighty-seven, if such corporations are... competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws...

.....

SEC. 20. That no restraining order or injunction shall be granted by any court of the United States, .. in any case between an employer and employees, or between employers and employees, or between employees... involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with a particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peaceably assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto;

nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

.....

SEC. 22. That whenever it shall be made to appear to any district court or judge thereof, or to any judge therein sitting, by the return of a proper officer on lawfully process, .. that there is reasonable ground to believe that any person has been guilty of such contempt, the court ... may issue a rule requiring the said person so charged to show cause upon a day certain why he should not be punished therefor, which rule, together with a copy of the affidavit or information, shall be served upon the person charged, with sufficient promptness to enable him to prepare for and make return to the order at the time fixed therein. If upon or by such return, in the judgment of the court, the alleged contempt be not sufficiently purged, a trial shall be directed at a time and place fixed by the court:..

In all cases within the purview of this Act such trial may be by the court, or upon demand of the accused, by a jury; ..

If the accused be found guilty, judgment shall be entered accordingly, prescribing the punishment, either by fine or imprisonment, or both, in the discretion of the court:..

.....

SEC. 24. That nothing herein contained shall be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, ..

.....

Approved, October 15, 1914.

245. THE FIRST LUSITANIA NOTE

The occasion for this note was the development of German submarine warfare culminating in the sinking of the Cunard Liner, Lusitania, May 7, 1915, which had shocked the humanity of the neutral world. Although this note was signed by Bryan, as Secretary of State, it was the work of President Wilson. Bryan later resigned rather than approve a subsequent note in the controversy.

The American Journal of International Law; Supplement 1915, Vol. 9, pp. 129-133.

The Secretary of State to Ambassador Gerard.

No. 1664.]

DEPARTMENT OF STATE,
Washington, May 13, 1915.

PLEASE call on the Minister of Foreign Affairs and after reading to him this communication leave with him a copy.

In view of recent acts of the German authorities in violation of American rights on the high seas which culminated in the torpedoing and sinking of the British steamship *Lusitania* on May 7, 1915, by which over 100 American citizens lost their lives, it is clearly wise and desirable that the Government of the United States and the Imperial German Government should come to a clear and full understanding as to the grave situation which has resulted.

The sinking of the British passenger steamer *Falaba* by a German submarine on March 28, through which Leon C. Thrasher, an American citizen, was drowned; the attack on April 28 on the American vessel *Cushing* by a German aeroplane; the torpedoing on May 1 of the American vessel *Gulflight* by a German submarine, as a result of which two or more American citizens met their death; and, finally, the torpedoing and sinking of the steamship *Lusitania*, constitute a series of events which the Government of the United States has observed with growing concern, distress, and amazement.

Recalling the humane and enlightened attitude hitherto assumed by the Imperial German Government in matters of international right, and particularly with regard to the freedom of the seas; having learned to recognize the German views and the German influence in the field of international obligation as always engaged upon the side of justice and humanity; and having understood the instructions of the Imperial German Government to its naval commanders to be upon the same plane of humane action prescribed by the naval codes of other nations, the Government of the United States was loath to believe — it can not now bring itself to believe — that these acts, so absolutely contrary to the rules, the practices, and the spirit of modern warfare, could have the countenance or sanction of that great Government. It feels it to be its duty, therefore, to address the Imperial German Government concerning them with the utmost frankness and in the earnest hope that it is not mistaken in expecting action on the part of the Imperial German Government which will correct the unfortunate impressions which have been created and vindicate once more the position of that Government with regard to the sacred freedom of the seas.

The Government of the United States has been apprised that the

Imperial German Government considered themselves obliged by the extraordinary circumstances of the present war and the measures adopted by their adversaries in seeking to cut Germany off from all commerce, to adopt methods of retaliation which go much beyond the ordinary methods of warfare at sea, in the proclamation of a war zone from which they have warned neutral ships to keep away. This Government has already taken occasion to inform the Imperial German Government that it can not admit the adoption of such measures or such a warning of danger to operate as in any degree an abbreviation of the rights of American shipmasters or of American citizens bound on lawful errands as passengers on merchant ships of belligerent nationality; and that it must hold the Imperial German Government to a strict accountability for any infringement of those rights, intentional or incidental. It does not understand the Imperial German Government to question those rights. It assumes, on the contrary, that the Imperial Government accept, as of course, the rule that the lives of noncombatants, whether they be of neutral citizenship or citizens of one of the nations at war, can not lawfully or rightfully be put in jeopardy by the capture or destruction of an unarmed merchantman, and recognize also, as all other nations do, the obligation to take the usual precaution of visit and search to ascertain whether a suspected merchantman is in fact of belligerent nationality or is in fact carrying contraband of war under a neutral flag.

The Government of the United States, therefore, desires to call the attention of the Imperial German Government with the utmost earnestness to the fact that the objection to their present method of attack against the trade of their enemies lies in the practical impossibility of employing submarines in the destruction of commerce without disregarding those rules of fairness, reason, justice, and humanity which all modern opinion regards as imperative. It is practically impossible for the officers of a submarine to visit a merchantman at sea and examine her papers and cargo. It is practically impossible for them to make a prize of her; and, if they can not put a prize crew on board of her, they can not sink her without leaving her crew and all on board of her to the mercy of the sea in her small boats. These facts it is understood the Imperial German Government frankly admit. We are informed that in the instances of which we have spoken time enough for even that poor measure of safety was not given, and in at least two of the cases cited not so much as a warning was received. Manifestly submarines can not be used against merchantmen, as the last few weeks have shown, without an inevitable violation of many sacred principles of justice and humanity.

American citizens act within their indisputable rights in taking their

ships and in traveling wherever their legitimate business calls them upon the high seas, and exercise those rights in what should be the well-justified confidence that their lives will not be endangered by acts done in clear violation of universally acknowledged international obligations, and certainly in the confidence that their own Government will sustain them in the exercise of their rights.

There was recently published in the newspapers of the United States, I regret to inform the Imperial German Government, a formal warning, purporting to come from the Imperial German Embassy at Washington, addressed to the people of the United States, and stating, in effect, that any citizen of the United States who exercised his right of free travel upon the seas would do so at his peril if his journey should take him within the zone of waters within which the Imperial German Navy was using submarines against the commerce of Great Britain and France, notwithstanding the respectful but very earnest protest of his Government, the Government of the United States. I do not refer to this for the purpose of calling the attention of the Imperial German Government at this time to the surprising irregularity of a communication from the Imperial German Embassy at Washington addressed to the people of the United States through the newspapers, but only for the purpose of pointing out that no warning that an unlawful and inhumane act will be committed can possibly be accepted as an excuse or palliation for that act or as an abatement of the responsibility for its commission.

Long acquainted as this Government has been with the character of the Imperial German Government and with the high principles of equity by which they have in the past been actuated and guided, the Government of the United States can not believe that the commanders of the vessels which committed these acts of lawlessness did so except under a misapprehension of the orders issued by the Imperial German naval authorities. It takes it for granted that, at least within the practical possibilities of every such case, the commanders even of submarines were expected to do nothing that would involve the lives of noncombatants or the safety of neutral ships, even at the cost of failing of their object of capture or destruction. It confidently expects, therefore, that the Imperial German Government will disavow the acts of which the Government of the United States complains, that they will make reparation so far as reparation is possible for injuries which are without measure, and that they will take immediate steps to prevent the recurrence of anything so obviously subversive of the principles of warfare for which the Imperial German Government have in the past so wisely and so firmly contended.

The Government and people of the United States look to the Imperial German Government for just, prompt, and enlightened action in this vital matter with the greater confidence because the United States and Germany are bound together not only by special ties of friendship but also by the explicit stipulations of the treaty of 1828 between the United States and the Kingdom of Prussia.

Expressions of regret and offers of reparation in the case of the destruction of neutral ships sunk by mistake, while they may satisfy international obligations, if no loss of life results, can not justify or excuse a practice, the natural and necessary effect of which is to subject neutral nations and neutral persons to new and immeasurable risks.

The Imperial German Government will not expect the Government of the United States to omit any word or any act necessary to the performance of its sacred duty of maintaining the rights of the United States and its citizens and of safeguarding their free exercise and enjoyment.

BRYAN.

246. OCCUPATION OF HAITI

Under the following treaty, United States forces occupied and controlled Haiti during the latter part of the World War period.

Statutes at Large of the United States, Vol. 39, Treaties and Conventions, pp. 44-50.

Treaty between the United States and Haiti, of mutual amity, remedying financial conditions and assisting the economic development and tranquillity of Haiti. Signed at Port-au-Prince, September 16, 1915; ratification advised by the Senate, February 28, 1916; ratified by the President, March 20, 1916; ratified by Haiti, September 17, 1915; ratifications exchanged at Washington, May 3, 1916; proclaimed, May 3, 1916.

.....

ARTICLE I

THE Government of the United States will, by its good offices, aid the Haitian Government in the proper and efficient development of its agricultural, mineral and commercial resources and in the establishment of the finances of Haiti on a firm and solid basis.

ARTICLE II

The President of Haiti shall appoint, upon nomination by the President of the United States, a General Receiver . . . who shall collect, receive and apply all customs duties on imports and exports accruing at the several custom houses . . . of the Republic of Haiti.

The President of Haiti shall appoint, upon nomination by the President of the United States, a Financial Adviser, . . . The Financial Adviser shall devise an adequate system of public accounting, aid in increasing the revenues and adjusting them to the expenses, inquire into the validity of the debts of the Republic, enlighten both Governments with reference to all eventual debts, recommend improved methods of collecting and applying the revenues, and make such other recommendations to the Minister of Finance as may be deemed necessary for the welfare and prosperity of Haiti.

ARTICLE III

The Government of the Republic of Haiti will provide by law or appropriate decrees for the payment of all customs duties to the General Receiver, and will extend to the Receivership, and to the Financial Adviser, all needful aid and full protection in the execution of the powers conferred and duties imposed herein; and the United States on its part will extend like aid and protection.

.....

ARTICLE V

All sums collected and received by the General Receiver shall be applied, first, to the payment of the salaries . . . of the General Receiver, . . . and expenses of the Receivership including the salary and expenses of the Financial Adviser, which salaries will be determined by previous agreement; second, to the interest and sinking fund of the public debt of the Republic of Haiti; and, third, to the maintenance of the constabulary referred to in Article X, and then the remainder to the Haitian Government for purposes of current expenses.

.....

ARTICLE VI

The expenses of the Receivership, . . . shall not exceed five per centum of the collections and receipts from customs duties, unless by agreement by the two Governments.

.....

ARTICLE VIII

The Republic of Haiti shall not increase its public debt except by previous agreement with the President of the United States, and shall not contract any debt or assume any financial obligation unless the ordinary revenues of the Republic available for that purpose, after defraying the expenses of the Government, shall be adequate to pay the interest and provide a sinking fund for the final discharge of such debt.

ARTICLE IX

The Republic of Haiti will not without a previous agreement with the President of the United States, modify the customs duties in a manner to reduce the revenues therefrom; ..

ARTICLE X

The Haitian Government obligates itself . . . to create without delay an efficient constabulary, urban and rural, composed of native Haitians. This constabulary shall be organized and officered by Americans, appointed by the President of Haiti, upon nomination by the President of the United States. . . These officers will be replaced by Haitians as they, by examination, conducted under direction of a board to be selected by the senior American officer of this constabulary and in the presence of a representative of the Haitian Government, are found to be qualified to assume such duties. . .

ARTICLE XI

The Government of Haiti agrees not to surrender any of the territory of the Republic of Haiti by sale, lease, or otherwise, or jurisdiction over such territory, to any foreign government or power, nor to enter into any treaty or contract with any foreign power or powers that will impair or tend to impair the independence of Haiti.

.....

ARTICLE XIV

... should the necessity occur, the United States will lend an efficient aid for the preservation of Haitian independence and the maintenance of a government adequate for the protection of life, property and individual liberty.

.....

ARTICLE XVI

The present treaty shall remain in full force and virtue for the term of ten years, to be counted from the day of exchange of ratifications, and further for another term of ten years if, for specific reasons presented by either of the high contracting parties, the purpose of this treaty has not been fully accomplished.

.....

Done at Port-au-Prince, Haiti, the 16th day of September in the year of our Lord one thousand nine hundred and fifteen.

ROBERT BEALE DAVIS, JR. [SEAL.]

Chargé d'Affaires of the United States

LOUIS BORNO [SEAL.]

Secrétaire d'Etat des Relations Extérieures et de l'Instruction Publique

247. THE GERMAN SUBMARINE PLEDGE

After a year of vain negotiation, endeavoring to make Germany limit her submarine warfare according to the dictates of humanity the following pledge was extorted from the German Government, May 4, 1916. The conditions on which Germany abandoned submarine warfare are important; important, also, the American position in reply. Here, again, although the American note is signed by the Secretary of State, Lansing, the inspiration is undoubtedly President Wilson's.

American Journal of International Law. Supplement, 1916, pp. 195-200, New York.

Ambassador Gerard to the Secretary of State.

[Telegram.]

No. 3848.]

AMERICAN EMBASSY,

Berlin, May 4, 1916.

FOLLOWING is the text of the note handed to me both in German and English at 5.30 this afternoon by Secretary of State for Foreign Affairs:

FOREIGN OFFICE,
Berlin, May 4, 1916.

The undersigned, on behalf of the Imperial Government, has the honor to present to His Excellency the Ambassador of the United States, Mr. James W. Gerard, the following reply to the note of April 20 regarding the conduct of German submarine warfare:

.....

As the German Government has repeatedly declared, it can not dispense with the use of the submarine weapon in the conduct of warfare against enemy trade. The German Government, however, has now decided to make a further concession in adapting the methods of submarine warfare to the interests of the neutrals; in reaching this decision the German Government has been actuated by considerations which are above the level of the disputed question.

.....

For, in answer to the appeal made by the United States Government on behalf of the sacred principles of humanity and international law, the German Government must repeat once more with all emphasis that it was not the German but the British Government which, ignoring all the accepted rules of international law, has extended this terrible war to the lives and property of non-combatants, having no regard whatever for the interests and rights of the neutrals and non-combatants that through this method of warfare have been severely injured.

In self-defense against the illegal conduct of British warfare, while fighting a bitter struggle for her national existence, Germany had to resort to the hard but effective weapon of submarine warfare. As matters stand, the German Government can not but reiterate its regret that the sentiments of humanity which the Government of the United States extends with such fervor to the unhappy victims of submarine warfare are not extended with the same warmth of feeling to the many millions of women and children who, according to the avowed intentions of the British Government, shall be starved and who, by their sufferings, shall force the victorious armies of the central powers into ignominious capitulation. . .

.....

It will therefore be understood that the appeal made by the Government of the United States to the sentiments of humanity and to the principles of international law can not, under the circumstances, meet with the same hearty response from the German people which such an

appeal is otherwise always certain to find there. If the German Government, nevertheless, has resolved to go to the utmost limit of concessions, it has not alone been guided by the friendship connecting the two great nations for over a hundred years, but it also has thought of the great doom which threatens the entire civilized world should this cruel and sanguinary war be extended and prolonged.

The German Government, conscious of Germany's strength, has twice within the last few months announced before the world its readiness to make peace on a basis safeguarding Germany's vital interests, thus indicating that it is not Germany's fault if peace is still withheld from the nations of Europe.

The German Government feels all the more justified to declare that the responsibility could not be borne before the forum of mankind and history if, after 21 months' duration of the war, the submarine question under discussion between the German Government and the Government of the United States were to take a turn seriously threatening the maintenance of peace between the two nations.

As far as it lies with the German Government, it wishes to prevent things from taking such a course. The German Government, moreover, is prepared to do its utmost to confine the operations of war for the rest of its duration to the fighting forces of the belligerents, thereby also insuring the freedom of the seas, a principle upon which the German Government believes, now as before, to be in agreement with the Government of the United States.

The German Government, guided by this idea, notifies the Government of the United States that the German naval forces have received the following orders: In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law, such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance.

But neutrals can not expect that Germany, forced to fight for her existence, shall, for the sake of neutral interest, restrict the use of an effective weapon if her enemy is permitted to continue to apply at will methods of warfare violating the rules of international law. Such a demand would be incompatible with the character of neutrality, and the German Government is convinced that the Government of the United States does not think of making such a demand, knowing that the Government of the United States has repeatedly declared that it is determined to restore the principle of the freedom of the seas, from whatever quarter it is violated.

Accordingly, the German Government is confident that, in consequence of the new orders issued to its naval forces, the Government of the United States will now also consider all impediments removed which may have been in the way of a mutual coöperation towards the restoration of the freedom of the seas during the war as suggested in the note of July 23, 1915, and it does not doubt that the Government of the United States will now demand and insist that the British Government shall forthwith observe the rules of international law universally recognized before the war as they are laid down in the notes presented by the Government of the United States to the British Government on December 28, 1914, and November 5, 1915. Should the steps taken by the Government of the United States not attain the object it desires to have the laws of humanity followed by all belligerent nations, the German Government would then be facing a new situation, in which it must reserve itself complete liberty of decision.

The undersigned avails himself of this occasion to renew to the American Ambassador the assurances of his highest consideration.

VON JAGOW.

Foreign Office informs me note will be given out here to the German newspapers and American correspondents late to-morrow afternoon.

GERARD.

.....

The Secretary of State to Ambassador Gerard.

[Telegram.]

DEPARTMENT OF STATE,

Washington, May 8, 1916.

You are instructed to deliver to the Minister of Foreign Affairs a communication textually as follows:

The note of the Imperial German Government under date of May 4, 1916, has received careful consideration by the Government of the United States. It is especially noted, as indicating the purpose of the Imperial Government as to the future, that it "is prepared to do its utmost to confine the operations of the war for the rest of its duration to the fighting forces of the belligerents," and that it is determined to impose upon all its commanders at sea the limitations of the recognized rules of international law upon which the Government of the United States has insisted. Throughout the months which have elapsed since

the Imperial Government announced, on February 4, 1915, its submarine policy, now happily abandoned, the Government of the United States has been constantly guided and restrained by motives of friendship in its patient efforts to bring to an amicable settlement the critical questions arising from that policy. Accepting the Imperial Government's declaration of its abandonment of the policy which has so seriously menaced the good relations between the two countries, the Government of the United States will rely upon a scrupulous execution henceforth of the now altered policy of the Imperial Government, such as will remove the principal danger to an interruption of the good relations existing between the United States and Germany.

The Government of the United States feels it necessary to state that it takes for granted that the Imperial German Government does not intend to imply that the maintenance of its newly announced policy is in any way contingent upon the course or result of diplomatic negotiations between the Government of the United States and any other belligerent Government, notwithstanding the fact that certain passages in the Imperial Government's note of the 4th instant might appear to be susceptible of that construction. In order, however, to avoid any possible misunderstanding, the Government of the United States notifies the Imperial Government that it can not for a moment entertain, much less discuss, a suggestion that respect by German naval authorities for the rights of citizens of the United States upon the high seas should in any way or in the slightest degree be made contingent upon the conduct of any other Government affecting the rights of neutrals and noncombatants. Responsibility in such matters is single, not joint; absolute, not relative.

LANSING.

248. ORGANIC ACT OF THE PHILIPPINE ISLANDS

Approved August 29, 1916.

Statutes at Large of the United States, *Vol. 39*, Public Laws, pp. 545-556.

WHEREAS it was never the intention of the people of the United States in the incipency of the War with Spain to make it a war of conquest or for territorial aggrandizement; and

Whereas it is, as it has always been, the purpose of the people of the United States to withdraw their sovereignty over the Philippine

Islands and to recognize their independence as soon as a stable government can be established therein; and

Whereas for the speedy accomplishment of such purpose it is desirable to place in the hands of the people of the Philippines as large a control of their domestic affairs as can be given them without, in the meantime, impairing the exercise of the rights of sovereignty by the people of the United States, in order that, by the use and exercise of popular franchise and governmental powers, they may be the better prepared to fully assume the responsibilities and enjoy all the privileges of complete independence: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, . .

SEC. 2. That all inhabitants of the Philippine Islands who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain, signed at Paris December tenth, eighteen hundred and ninety-eight, and except such others as have since become citizens of some other country:..

SEC. 3. [Enacts bill of rights for the Philippines.] . . .

.....

SEC. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this Act.

SEC. 6. That the laws now in force in the Philippines shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided or by Act of Congress of the United States.

SEC. 7. That the legislative authority herein provided shall have power, when not inconsistent with this Act, by due enactment to amend, alter, modify, or repeal any law, civil or criminal, continued in force by this Act as it may from time to time see fit.

This power shall specifically extend with the limitation herein provided as to the tariff to all laws relating to revenue and taxation in effect in the Philippines.

SEC. 8. That general legislative power, except as otherwise herein provided, is hereby granted to the Philippine Legislature, authorized by this Act.

.....

SEC. 10. That while this Act provides that the Philippine government shall have the authority to enact a tariff law the trade relations between the islands and the United States shall continue to be governed exclusively by laws of the Congress of the United States: *Provided*, That tariff acts or acts amendatory to the tariff of the Philippine Islands shall not become law until they shall receive the approval of the President of the United States, nor shall any act of the Philippine Legislature affecting immigration or the currency or coinage laws of the Philippines become a law until it has been approved by the President of the United States: *Provided further*, That the President shall approve or disapprove any act mentioned in the foregoing proviso within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved.

.....

SEC. 12. That general legislative powers in the Philippines, except as herein otherwise provided, shall be vested in a legislature which shall consist of two houses, one the senate and the other the house of representatives, and the two houses shall be designated "The Philippine Legislature":..

SEC. 13. That the members of the senate of the Philippines, except as herein provided, shall be elected for terms of six and three years, as hereinafter provided, by the qualified electors of the Philippines. Each of the senatorial districts defined as hereinafter provided shall have the right to elect two senators. No person shall be an elective member of the senate of the Philippines who is not a qualified elector and over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of the Philippines for at least two consecutive years and an actual resident of the senatorial district from which chosen for a period of at least one year immediately prior to his election.

SEC. 14. That the members of the house of representatives shall, except as herein provided, be elected triennially by the qualified electors of the Philippines. Each of the representative districts hereinafter provided for shall have the right to elect one representative. No person shall be an elective member of the house of representatives who is not a qualified elector and over twenty-five years of age, and who is not able to read and write either the Spanish or English language, and who has not been an actual resident of the district from which elected for at least one year immediately prior to his election:..

SEC. 15. ...until otherwise provided by the Philippine Legisla-

ture herein provided for the qualifications of voters for senators and representatives in the Philippines and all officers elected by the people shall be as follows:

Every male person who is not a citizen or subject of a foreign power twenty-one years of age or over (except insane and feeble-minded persons and those convicted in a court of competent jurisdiction of an infamous offense since the thirteenth day of August, eighteen hundred and ninety-eight), who shall have been a resident of the Philippines for one year and of the municipality in which he shall offer to vote for six months next preceding the day of voting, and who is comprised within one of the following classes:

(a) Those who under existing law are legal voters and have exercised the right of suffrage.

(b) Those who own real property to the value of 500 pesos, or who annually pay 30 pesos or more of the established taxes.

(c) Those who are able to read and write either Spanish, English, or a native tongue.

.....

... The first election under the provisions of this Act shall be held on the first Tuesday of October, nineteen hundred and sixteen, . . there shall be chosen at such election one senator from each senate district for a term of three years and one for six years. Thereafter one senator from each district shall be elected from each senate district for a term of six years; *Provided*, That the Governor General of the Philippine Islands shall appoint, without the consent of the senate and without restriction as to residence, senators and representatives who will, in his opinion, best represent the senate district and those representative districts which may be included in the territory not now represented in the Philippine Assembly:..

SEC. 17. That the terms of office of elective senators and representatives shall be six and three years, respectively, and shall begin on the date of their election. . .

.....

SEC. 19. . . every bill and joint resolution which shall have passed both houses shall, before it becomes a law, be presented to the Governor-General. If he approve the same, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, which shall enter the objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the same, it shall be sent, together with the objections, to the other house, by which it

shall likewise be reconsidered, and if approved by two-thirds of all the members elected to that house it shall be sent to the Governor General, who, in case he shall then not approve, shall transmit the same to the President of the United States. . . If the President of the United States approve the same, he shall sign it and it shall become a law. If he shall not approve same, he shall return it to the Governor General, so stating, and it shall not become a law: . .

All laws enacted by the Philippine Legislature shall be reported to the Congress of the United States, which hereby reserves the power and authority to annul the same. If at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made, the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be done, shall be deemed to be reappropriated for the several objects and purposes specified in said last appropriation bill; . .

SEC. 20. That at the first meeting of the Philippine Legislature created by this Act and triennially thereafter there shall be chosen by the legislature two Resident Commissioners to the United States, who shall hold their office for a term of three years beginning with the fourth day of March following their election, and which shall be entitled to an official recognition as such by all departments upon presentation to the President of a certificate of election by the Governor General of said islands. . .

SEC. 21. That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor General of the Philippine Islands." He shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and hold his office at the pleasure of the President and until his successor is chosen and qualified. The Governor General shall reside in the Philippine Islands during his official incumbency, and maintain his office at the seat of government. He shall, unless otherwise herein provided, appoint, by and with the consent of the Philippine Senate, such officers as may now be appointed by the Governor General, or such as he is authorized by this Act to appoint, or whom he may hereafter be authorized by law to appoint; . . He . . . shall be commander in chief of all locally created armed forces and militia. . . He shall be responsible for the faithful execution of the laws of the Philippine Islands and of the United States operative within the Philippine Islands, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the islands, or summon the posse comitatus, or call out the militia or other locally created armed

forces, to prevent or suppress lawless violence, invasion, insurrection, or rebellion; and he may, in case of rebellion or invasion; or imminent danger thereof, when the public safety requires it, suspend the privileges of the writ of habeas corpus, or place the islands, or any part thereof, under martial law: *Provided*, That whenever the Governor General shall exercise this authority, he shall at once notify the President of the United States thereof, together with the attending facts and circumstances, and the President shall have power to modify or vacate the action of the Governor General. He shall annually and at such other times as he may be required make such official report of the transactions of the government of the Philippine Islands to an executive department of the United States to be designated by the President, and his said annual report shall be transmitted to the Congress of the United States; and he shall perform such additional duties and functions as may in pursuance of law be delegated or assigned to him by the President.

.....

SEC. 27. That the Supreme Court of the United States shall have jurisdiction to review, revise, reverse, modify, or affirm the final judgments and decrees of the Supreme Court of the Philippine Islands in all actions, cases, causes, and proceedings now pending therein or hereafter determined thereby in which the Constitution or any statute, treaty, title, right, or privilege of the United States is involved, or in causes in which the value in controversy exceeds \$25,000, or in which the title or possession of real estate exceeding in value the sum of \$25,000, to be ascertained by the oath of either party or of other competent witnesses, is involved or brought in question; and such final judgments or decrees may and can be reviewed, revised, reversed, modified, or affirmed by said Supreme Court of the United States on appeal or writ of error by the party aggrieved within the same time, in the same manner, under the same regulations, and by the same procedure, as far applicable, as the final judgments and decrees of the district courts of the United States.

... It shall be unlawful for any corporation organized under this Act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said islands, to use, employ, or contract for the labor of persons held in involuntary servitude; ..

SEC. 29. That, except as in this Act otherwise provided, the salaries of all the officials of the Philippines not appointed by the President, including deputies, assistants, and other employees, shall be such and be so paid out of the revenues of the Philippines as shall from time to

time be determined by the Philippine Legislature; and if the legislature shall fail to make an appropriation for such salaries, the salaries so fixed shall be paid without the necessity of further appropriations therefor. The salaries of all officers and all expenses of the offices of the various officials of the Philippines appointed as herein provided by the President shall also be paid out of the revenues of the Philippines. The annual salaries of the following-named officials appointed by the President and so to be paid shall be: The Governor General, \$18,000; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of the Philippines, with the furniture and effects therein, free of rental; vice governor, \$10,000; chief justice of the supreme court, \$8,000; associate justices of the supreme court, \$7,500 each; auditor, \$6,000; deputy auditor, \$3,000.

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Approved, August 29, 1916.

249. ADAMSON EIGHT HOUR LAW

Approved September 5, 1916, the act was designed, in view of the possibility of the United States becoming involved in the World War, to prevent a dangerous railroad strike which seemed imminent in the Fall of 1916.

Statutes at Large of the United States, 1915-16. Vol. 39, Public Laws, pp. 721-722.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That beginning January first, nineteen hundred and seventeen, eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services of all employees who are now or may hereafter be employed by any common carrier by railroad, except railroads independently owned and operated not exceeding one hundred miles in length, electric street railroads, and electric interurban railroads, which is subject to the provisions of the Act of February fourth, eighteen hundred and eighty-seven, entitled "An Act to regulate commerce," as amended, and who are now or may hereafter be actually engaged in any capacity in the operation of trains used for the transportation of persons or property on railroads, . . from any State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or from one place in a

Territory to another place in the same Territory, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States: *Provided*, That the above exceptions shall not apply to railroads though less than one hundred miles in length whose principal business is leasing or furnishing terminal or transfer facilities to other railroads, or are themselves engaged in transfers of freight between railroads or between railroads and industrial plants.

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Approved, September 5, 1916.

250. ORGANIC ACT OF PORTO RICO

Approved March 2, 1917.

Statutes at Large of the United States, *Vol. 39*, Public Laws, *pp.*
951-968.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this Act shall apply to the island of Porto Rico and to the adjacent islands belonging to the United States, and waters of those islands; and the name Porto Rico as used in this Act shall be held to include not only the island of that name but all the adjacent islands as aforesaid.

BILL OF RIGHTS

... Nothing contained in this Act shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees.

That no law granting a title of nobility shall be enacted, ..

.....

That slavery shall not exist in Porto Rico.

That involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall not exist in Porto Rico.

.....

That one year after the approval of this Act and thereafter it shall be unlawful to import, manufacture, sell, or give away, or to expose for sale or gift any intoxicating drink or drug...

.....

That eight hours shall constitute a day's work in all cases of employment of laborers and machanics by and on behalf of the government of the island on public works, except in cases of emergency.

That the employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.

SEC. 3. That no export duties shall be levied or collected on exports from Porto Rico, but taxes and assessments on property, internal revenue, and license fees, and royalties for franchises, privileges, and concessions may be imposed for the purposes of the insular and municipal governments, respectively, as may be provided and defined by the Legislature of Porto Rico; . .

SEC. 4. That the capital of Porto Rico shall be at the city of San Juan, and the seat of government shall be maintained there.

SEC. 5. That all citizens of Porto Rico, as defined by section seven of the Act of April twelfth, nineteen hundred, "temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," and all natives of Porto Rico who were temporarily absent from that island on April eleventh, eighteen hundred and ninety-nine, and have since returned and are permanently residing in that island, and are not citizens of any foreign country, are hereby declared, and shall be deemed and held to be, citizens of the United States: . .

EXECUTIVE DEPARTMENT.

SEC. 12. That the supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor of Porto Rico." He shall be appointed by the President, by and with the advice and consent of the Senate, and hold his office at the pleasure of the President and until his successor is chosen and qualified. The governor shall reside in Porto Rico during his official incumbency and maintain his office at the seat of government. He shall have general supervision and control of all the departments and bureaus of the government in Porto Rico, so far as is not inconsistent with the provisions of this Act, and shall be commander in chief of the militia. . .

SEC. 13. That the following executive departments are hereby created: A department of justice, the head of which shall be designated as the attorney general; a department of finance, . . a department of interior, . . a department of education, . . a department of agriculture and labor, . . and a department of health, . . The attorney general and commissioner of education shall be appointed by the President, by and with the advice and consent of the Senate of the United States, to hold

office for four years and until their successors are appointed and qualified, unless sooner removed by the President. The heads of the four remaining departments shall be appointed by the governor, by and with the advice and consent of the Senate of Porto Rico. The heads of departments appointed by the governor shall hold office for the term of four years and until their successors are appointed and qualified, unless sooner removed by the governor.

Heads of departments shall reside in Porto Rico during their official incumbency, and those appointed by the governor shall have resided in Porto Rico for at least one year prior to their appointment.

The heads of departments shall collectively form a council to the governor, known as the executive council. . .

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SEC. 24. That the President may from time to time designate the head of an executive department of Porto Rico to act as governor in the case of a vacancy, the temporary removal, resignation, or disability of the governor, or his temporary absence, and the head of the department thus designated shall exercise all the powers and perform all the duties of the governor during such vacancy, disability, or absence.

LEGISLATIVE DEPARTMENT.

SEC. 25. That all local legislative powers in Porto Rico, except as herein otherwise provided, shall be vested in a legislature which shall consist of two houses, one the senate and the other the house of representatives, and the two houses shall be designated "the Legislature of Porto Rico."

SEC. 26. That the Senate of Porto Rico shall consist of nineteen members elected for terms of four years by the qualified electors of Porto Rico. Each of the seven senatorial districts . . . shall have the right to elect two senators, and in addition thereto there shall be elected five senators at large. No person shall be a member of the Senate of Porto Rico who is not over thirty years of age, and who is not able to read and write either the Spanish or English language, and who has not been a resident of Porto Rico for at least two consecutive years, and, except in the case of senators at large, an actual resident of the senatorial district from which chosen for a period of at least one year prior to his election. . .

SEC. 27. That the House of Representatives of Porto Rico shall consist of thirty-nine members elected quadrennially by the qualified electors of Porto Rico, . . No person shall be a member of the house of

representatives who is not over twenty-five years of age, and who is not able to read and write either the Spanish or English language...

.....

SEC. 34. ...The governor shall submit at the opening of each regular session of the legislature a budget of receipts and expenditures, which shall be the basis of the ensuing biennial appropriation bill... If when a bill that has been passed is presented to the governor for his signature he approves the same, he shall sign it; or if not, he shall return it, with his objections, to the house in which it originated, which house shall enter his objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the members of that house shall agree to pass the same it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members of that house it shall be sent to the governor, who, in case he shall then not approve, shall transmit the same to the President of the United States... If the President of the United States approve the same he shall sign it and it shall become a law. If he shall not approve same he shall return it to the governor so stating, and it shall not become a law: *Provided*, That the President of the United States shall approve or disapprove an Act submitted to him under the provisions of this section within ninety days from and after its submission for his approval; and if not approved within such time it shall become a law the same as if it had been specifically approved. If any bill presented to the governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving of the other portion of the bill... If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall be a law if signed by the governor within thirty days after receipt by him; otherwise it shall not be a law. All laws enacted by the Legislature of Porto Rico shall be reported to the Congress of the United States, as provided in section twenty-three of this Act, which hereby reserves the power and authority to annul the same...

.....

SEC. 36. That the qualified electors of Porto Rico shall at the next general election choose a Resident Commissioner to the United States, .. whose term of office shall be four years from the fourth of March following such general election, and who shall be entitled to

receive official recognition as such Commissioner by all of the departments of the Government of the United States, upon presentation, through the Department of State, of a certificate of election of the Governor of Porto Rico. The Resident Commissioner shall receive a salary, payable monthly by the United States, of \$7,500 per annum. Such Commissioner shall be allowed the same sum for stationery and for the pay of necessary clerk hire as is now allowed to Members of the House of Representatives of the United States; and he shall be allowed the sum of \$500 as mileage for each session of the House of Representatives and the franking privilege granted Members of Congress. No person shall be eligible to election as Resident Commissioner who is not a bona fide citizen of the United States and who is not more than twenty-five years of age, and who does not read and write the English language. . .

SEC. 37. That the legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities so far as may be necessary, and to provide and repeal laws and ordinances therefor; also the power to alter, amend, modify, or repeal any or all laws and ordinances of every character now in force in Porto Rico or municipality or district thereof in so far as such alteration, amendment, modification, or repeal may be consistent with the provisions of this Act.

No executive department not provided for in this Act shall be created by the legislature, but the legislature may consolidate departments, or abolish any department, with the consent of the President of the United States.

.....

JUDICIAL DEPARTMENT

SEC. 40. That the judicial power shall be vested in the courts and tribunals of Porto Rico now established and in operation under and by virtue of existing laws. . . *Provided, however,* That the chief justice and associate justices of the supreme court shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and the Legislature of Porto Rico shall have authority, from time to time as it may see fit, not inconsistent with this Act, to organize, modify, or rearrange the courts and their jurisdiction and procedure, except the District Court of the United States for Porto Rico.

SEC. 41. That Porto Rico shall constitute a judicial district to be

called "the district of Porto Rico." The President, by and with the advice and consent of the Senate, shall appoint one district judge, who shall serve for a term of four years and until his successor is appointed and qualified and whose salary shall be \$5,000 per annum. There shall be appointed in like manner a district attorney, whose salary shall be \$4,000 per annum, and a marshal for said district, whose salary shall be \$3,500 per annum, each for a term of four years unless sooner removed by the President. The district court for said district shall be called "the District Court of the United States for Porto Rico,".. Such district court shall have jurisdiction of all cases cognizable in the district courts of the United States, and shall proceed in the same manner. In addition said district court shall have jurisdiction for the naturalization of aliens and Porto Ricans, and for this purpose residence in Porto Rico shall be counted in the same manner as residence elsewhere in the United States..

.....

SEC. 43. That writs of error and appeals from the final judgments and decrees of the Supreme Court of Porto Rico may be taken and prosecuted to the Circuit Court of Appeals for the First Circuit and the Supreme Court of the United States, as now provided by the law.

.....

SEC. 57. That the laws and ordinances of Porto Rico now in force shall continue in force and effect, except as altered, amended, or modified herein, until altered, amended, or repealed by the legislative authority herein provided for Porto Rico or by Act of Congress of the United States; and such legislative authority shall have power, when not inconsistent with this Act, by due enactment to amend, alter, modify, or repeal any law or ordinance, civil or criminal, continued in force by this Act as it may from time to time see fit.

SEC. 58. That all laws or parts of laws applicable to Porto Rico not in conflict with any of the provisions of this Act,..are hereby continued in effect, and all laws and parts of laws inconsistent with the provisions of this Act are hereby repealed.

Approved, March 2, 1917.

251. DECLARATION OF WAR AGAINST GERMANY

February 3, 1917, President Wilson announced to Congress the severing of diplomatic relations with Germany as a result of German renewal of submarine warfare. He summoned the new Congress in

special session, April 2, and advised the declaration of war against Germany. The following resolution was passed by the Senate on April 4, 82 to 6 and by the House on April 6, 373 to 50.

Statutes at Large of the United States, Vol. 40, Part 1, p. 1.

WHEREAS the Imperial German Government has committed repeated acts of war against the Government and the people of the United States of America:

Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the state of war between the United States and the Imperial German Government which has thus been thrust upon the United States is hereby formally declared; and that the President be, and he is hereby, authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States.

Approved, April 6, 1917.

252. LOANS TO THE ENTENTE

The following act approved April 24, 1917, adopted for the United States the policy of generous financial subsidies to the powers engaged in war against Germany. It soon became apparent that if the war was not to be lost, the United States must go much further.

Statutes at Large of the United States, Vol. 40, Part 1, pp. 35-37.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury, with the approval of the President, is hereby authorized to borrow, from time to time, on the credit of the United States for the purposes of this Act, and to meet expenditures authorized for the national security and defense and other public purposes authorized by law not exceeding in the aggregate \$5,000,000,000, exclusive of the sums authorized by section four of this Act, and to issue therefor bonds of the United States.

.....

SEC. 2. That for the purpose of more effectually providing for the national security and defense and prosecuting the war by establish-

ing credits in the United States for foreign governments, the Secretary of the Treasury, with the approval of the President, is hereby authorized, on behalf of the United States, to purchase, at par, from such foreign governments then engaged in war with the enemies of the United States, their obligations hereafter issued, bearing the same rate of interest and containing in their essentials the same terms and conditions as those of the United States issued under authority of this Act; . . . For the purposes of this section there is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$3,000,000,000, or so much thereof as may be necessary: *Provided*, That the authority granted by this section to the Secretary of the Treasury to purchase bonds from foreign governments, as aforesaid, shall cease upon the termination of the war between the United States and the Imperial German Government.

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Approved, April 24, 1917.

253. THE SELECTIVE SERVICE ACT

Approved May 18, 1917. Later acts provided for additional drafts and set the ages for liability for military service from 18 to 45. The seventh provisio in Sec. 1, was intended to give an opportunity to the administration of gratifying Roosevelt's desire to lead overseas a division of older men. The administration never took advantage of it. Compare this act with the Draft Act of the Civil War period, No. 177.

Statutes at Large of the United States, Vol. 40, Part 1, pp. 76-83.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in view of the existing emergency, which demands the raising of troops in addition to those now available, the President be, and he is hereby, authorized —

First. Immediately to raise, . . . and equip all or such number of increments of the Regular Army provided by the national defense Act approved June third, nineteen hundred and sixteen, or such parts thereof as he may deem necessary; to raise all organizations of the Regular Army, including those added by such increments, to the maximum enlisted strength authorized by law. . .

Second. To draft into the military service of the United States, organize, and officer, in accordance with the provisions of section one hundred and eleven of said national defense Act, so far as the provisions

of said section may be applicable and not inconsistent with the terms of this Act, any or all members of the National Guard and of the National Guard Reserves, and said members so drafted into the military service of the United States shall serve therein for the period of the existing emergency unless sooner discharged:..

Third. To raise by draft as herein provided, organize and equip an additional force of five hundred thousand enlisted men, or such part or parts thereof as he may at any time deem necessary, ..

Fourth. The President is further authorized, in his discretion and at such time as he may determine, to raise and begin the training of an additional force of five hundred thousand men organized, officered, and equipped, as provided for the force first mentioned in the preceding paragraph of this section.

Fifth. To raise by draft, organize, equip, and officer, as provided in the third paragraph of this section, in addition to and for each of the above forces, such recruit training units as he may deem necessary for the maintenance of such forces at the maximum strength.

.....

Seventh. The President is further authorized to raise and maintain by voluntary enlistment, to organize, and equip, not to exceed four infantry divisions, .. *Provided*, That the organization of said force shall be the same as that of the corresponding organization of the Regular Army: *And provided further*, That there shall be no enlistments in said force of men under twenty-five years of age at time of enlisting: *And provided further*, That no such volunteer force shall be accepted in any unit smaller than a division.

SEC. 2. That the enlisted men required to raise and maintain the organizations of the Regular Army and to complete and maintain the organizations embodying the members of the National Guard drafted into the service of the United States, at the maximum legal strength as by this Act provided, shall be raised by voluntary enlistment, or if and whenever the President decides that they can not effectually be so raised or maintained, then by selective draft; and all other forces hereby authorized, except as provided in the seventh paragraph of section one, shall be raised and maintained by selective draft exclusively; but this provision shall not prevent the transfer to any force of training cadres from other forces. Such draft as herein provided shall be based upon liability to military service of all male citizens, or male persons not alien enemies who have declared their intention to become citizens, between the ages of twenty-one and thirty years, both inclusive, and shall take place and be maintained under such regulations

as the President may prescribe not inconsistent with the terms of this Act. . . All persons drafted into the service of the United States and all officers accepting commissions in the forces herein provided for shall, from the date of said draft or acceptance, be subject to the laws and regulations governing the Regular Army, except as to promotions, so far as such laws and regulations are applicable to persons whose permanent retention in the military service on the active or retired list is not contemplated by existing law, and those drafted shall be required to serve for the period of the existing emergency unless sooner discharged:..

SEC. 3. No bounty shall be paid to induce any person to enlist in the military service of the United States; and no person liable to military service shall hereafter be permitted or allowed to furnish a substitute for such service; . . and no such person shall be permitted to escape such service or to be discharged therefrom prior to the expiration of his term of service by the payment of money or any other valuable thing whatsoever as consideration for his release from military service or liability thereto.

SEC. 4. That the Vice President of the United States, the officers, legislative, executive, and judicial, of the United States and of the several States, Territories, and the District of Columbia, regular or duly ordained ministers of religion, students who at the time of the approval of this Act are preparing for the ministry in recognized theological or divinity schools, and all persons in the military and naval service of the United States shall be exempt from the selective draft herein prescribed; and nothing in this Act contained shall be construed to require or compel any person to serve in any of the forces herein provided for who is found to be a member of any well-recognized religious sect or organization at present organized and existing and whose existing creed or principles forbid its members to participate in war in any form and whose religious convictions are against war or participation therein in accordance with the creed or principles of said religious organizations, but no person so exempted shall be exempted from service in any capacity that the President shall declare to be noncombatant; and the President is hereby authorized to exclude or discharge from said selective draft and from the draft under the second paragraph of section one hereof, or to draft for partial military service only from those liable to draft as in this Act provided, persons of the following classes: County and municipal officials; customhouse clerks; persons employed by the United States in the transmission of the mails; artificers and workmen employed in the armories, arsenals, and navy

yards of the United States, and such other persons employed in the service of the United States as the President may designate; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States; persons engaged in industries, including agriculture, found to be necessary to the maintenance of the Military Establishment or the effective operation of the military forces or the maintenance of national interest during the emergency; those in a status with respect to persons dependent upon them for support which renders their exclusion or discharge advisable; and those found to be physically or morally deficient. No exemption or exclusion shall continue when a cause therefor no longer exists: *Provided*, That notwithstanding the exemptions enumerated herein, each State, Territory, and the District of Columbia shall be required to supply its quota in the proportion that its population bears to the total population of the United States.

The President is hereby authorized, in his discretion, to create and establish throughout the several States and subdivisions thereof and in the Territories and the District of Columbia local boards, and where, in his discretion, practicable and desirable, there shall be created and established one such local board in each county or similar subdivision in each State, and one for approximately each thirty thousand of population in each city of thirty thousand population or over, according to the last census taken or estimates furnished by the Bureau of Census of the Department of Commerce. Such boards shall be appointed by the President, and shall consist of three or more members, . . Such boards shall have power within their respective jurisdictions to hear and determine, subject to review as hereinafter provided, all questions of exemption under this Act, . .

The President is hereby authorized to establish additional boards, one in each Federal judicial district of the United States, consisting of such number of citizens, not connected with the Military Establishment, as the President may determine, who shall be appointed by the President. . .

Such district boards shall review on appeal and affirm, modify, or reverse any decision of any local board having jurisdiction in the area in which any such district board has jurisdiction under the rules and regulations prescribed by the President. . .

The decisions of such district boards shall be final except that, in accordance with such rules and regulations as the President may prescribe, he may affirm, modify or reverse any such decision.

.....

SEC. 5. That all male persons between the ages of twenty-one and thirty, both inclusive, shall be subject to registration in accordance with regulations to be prescribed by the President; and upon proclamation by the President or other public notice given by him or by his direction stating the time and place of such registration it shall be the duty of all persons of the designated ages, except officers and enlisted men of the Regular Army, the Navy, and the National Guard and Naval Militia while in the service of the United States, to present themselves for and submit to registration under the provisions of this Act; and every such person shall be deemed to have notice of the requirements of this Act upon the publication of said proclamation or other notice as aforesaid given by the President or by his direction; and any person who shall willfully fail or refuse to present himself for registration or to submit thereto as herein provided, shall be guilty of a misdemeanor and shall, upon conviction in the district court of the United States having jurisdiction thereof, be punished by imprisonment for not more than one year, and shall thereupon be duly registered:..

.....

SEC. 7. That the qualifications and conditions for voluntary enlistment as herein provided shall be the same as those prescribed by existing law for enlistments in the Regular Army, except that recruits must be between the ages of eighteen and forty years, both inclusive, at the time of their enlistment; and such enlistments shall be for the period of the emergency unless sooner discharged. . . *Provided further*, That all persons who have enlisted since April first, nineteen hundred and seventeen, either in the Regular Army or in the National Guard, and all persons who have enlisted in the National Guard since June third, nineteen hundred and sixteen, upon their application, shall be discharged upon the termination of the existing emergency.

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SEC. 10. That all officers and enlisted men of the forces herein provided for other than the Regular Army shall be in all respects on the same footing as to pay, allowances, and pensions as officers and enlisted men of corresponding grades and length of service in the Regular Army; ..

.....

Approved, May 18, 1917.

254. THE ESPIONAGE ACT

The following act, approved June 15, 1917, was intended, so far as possible, to free the government from any legal difficulty in dealing with disaffection and assistance to the enemy.

Statutes at Large of the United States, 1917. Vol. 40, Part 1, pp. 217-231.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

TITLE I.

ESPIONAGE.

SECTION 1. That (a) whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information to be obtained is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, . . fort, battery, torpedo station, dockyard, canal, . . or other place connected with the national defense, owned or constructed, or in progress of construction by the United States or under the control of the United States, . . or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, . . or stored, under any contract or agreement with the United States, . . or (b) whoever for the purpose aforesaid, and with like intent or reason to believe, copies, . . makes, or obtains, . . any sketch, photograph, . . plan, map, model, . . or (c) whoever, being intrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, . . plan, map, model, note, or information, relating to the national defense, through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than two years, or both.

SEC. 2. (a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates . . . to any foreign government, . . either

directly or indirectly, any document, writing, . . sketch, photograph, . . plan, . . or information relating to the national defense, shall be punished by imprisonment for not more than twenty years: *Provided*, That whoever shall violate the provisions of subsection (a) of this section in time of war shall be punished by death or by imprisonment for not more than thirty years; and (b) whoever, in time of war, with intent that the same shall be communicated to the enemy, shall collect, . . or communicate, . . any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct . . . of any naval or military operations, . . or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for not more than thirty years.

SEC. 3. Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies and whoever, when the United States is at war, shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct the recruiting or enlistment service of the United States, . . shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both.

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SEC. 5. Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under this title shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years, or both.

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SEC. 8. The provisions of this title shall extend to all Territories, possessions, and places subject to the jurisdiction of the United States whether or not contiguous thereto, and offenses under this title when committed upon the high seas or elsewhere within the admiralty and maritime jurisdiction of the United States and outside the territorial limits thereof shall be punishable hereunder.

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TITLE II.

VESSELS IN PORTS OF THE UNITED STATES.

SECTION 1. Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Within the territory and waters of the Canal Zone the Governor of the Panama Canal, with the approval of the President, shall exercise all the powers conferred by this section on the Secretary of the Treasury.

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TITLE III.

INJURING VESSELS ENGAGED IN FOREIGN
COMMERCE.

SECTION 1. Whoever shall set fire to any vessel of foreign registry, or any vessel of American registry entitled to engage in commerce with foreign nations, or to any vessel of the United States... or to the cargo of the same, or shall tamper with the motive power or instrumentalities of navigation of such vessel, or shall place bombs or explosives in or upon such vessel, or shall do any other act to or upon such vessel while within the jurisdiction of the United States, or, if such vessel is of American registry, while she is on the high sea, with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, . . or whoever shall attempt or conspire to do any such acts with such intent, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

TITLE IV.

INTERFERENCE WITH FOREIGN COMMERCE BY
VIOLENT MEANS.

SECTION 1. Whoever, with intent to prevent, interfere with, or obstruct or attempt to prevent, interfere with, or obstruct the exportation to foreign countries of articles from the United States shall injure or destroy, by fire or explosives, such articles or the places where they may be while in such foreign commerce, shall be fined not more than \$10,000, or imprisoned not more than ten years, or both.

TITLE V.

ENFORCEMENT OF NEUTRALITY.

SECTION 1. During a war in which the United States is a neutral nation, the President, or any person thereunto authorized by him, may withhold clearance from or to any vessel, domestic or foreign, which is required by law to secure clearance before departing from port or from the jurisdiction of the United States, or, by service of formal notice upon the owner, master, or person in command or having charge of any domestic vessel not required by law to secure clearances before so departing, to forbid its departure from port or from the jurisdiction of the United States, whenever there is reasonable cause to believe that any such vessel, domestic or foreign, whether requiring clearance or not, is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a foreign belligerent nation in violation of the laws, treaties, or obligations of the United States under the law of nations; and it shall thereupon be unlawful for such vessel to depart.

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TITLE VII.

CERTAIN EXPORTS IN TIME OF WAR UNLAWFUL.

SECTION 1. Whenever during the present war the President shall find that the public safety shall so require, and shall make proclamation thereof, it shall be unlawful to export from or ship from or take out of the United States to any country named in such proclamation any article or articles mentioned in such proclamation, except at such time

or times, and under such regulations and orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however,* That no preference shall be given to the ports of one State over those of another.

SEC. 2. Any person who shall export, ship, or take out, or deliver or attempt to deliver for export, shipment, or taking out, any article in violation of this title, or of any regulation or order made hereunder, shall be fined not more than \$10,000, or, if a natural person, imprisoned for not more than two years, or both; ..

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TITLE XII.

USE OF MAILS.

SECTION 1. Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter, or thing, of any kind, in violation of any of the provisions of this Act is hereby declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier: *Provided,* That nothing in this Act shall be so construed as to authorize any person other than an employee of the Dead Letter Office, duly authorized thereto, or other person upon a search warrant authorized by law, to open any letter not addressed to himself.

SEC. 2. Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, of any kind, containing any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States, is hereby declared to be nonmailable.

SEC. 3. Whoever shall use or attempt to use the mails or Postal Service of the United States for the transmission of any matter declared by this title to be nonmailable, shall be fined not more than \$5,000 or imprisoned not more than five years, or both...

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Approved, June 15, 1917.

255. THE LEVER ACT

Approved August 10, 1917. The necessity for conserving foodstuffs and fuel for the use of the United States and her allies, caused the passage of this act, to give legal authority to measures of food conservation already initiated by organized voluntary action on the part of consumers.

Statutes at Large of the United States, Vol. 40, Part 1, pp. 276-287.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That by reason of the existence of a state of war, it is essential to the national security and defense, for the successful prosecution of the war, and for the support and maintenance of the Army and Navy, to assure an adequate supply and equitable distribution, and to facilitate the movement, of foods, feeds, fuel...and equipment required for the actual production of foods, feeds, and fuel, hereafter in this Act called necessities; to prevent, .. scarcity, monopolization, hoarding, ..and private controls, affecting such supply, ..and to establish and maintain governmental control of such necessities during the war. For such purposes the instrumentalities...and prohibitions hereinafter set forth are created, ..and prescribed. The President is authorized to make such regulations and to issue such orders as are essential effectively to carry out the provisions of this Act.

SEC. 2. That in carrying out the purposes of this Act the President is authorized to enter into any voluntary arrangements or agreements, to create and use any agency or agencies, to accept the services of any person without compensation, to cooperate with any agency or person, to utilize any department or agency of the Government, and to coordinate their activities so as to avoid any preventable loss or duplication of effort or funds.

SEC. 3. That no person acting either as a voluntary or paid agent or employee of the United States in any capacity, .. shall solicit, .. any person or officer authorized to execute...contracts on behalf of the United States to make any contract or give any order for the furnishing to the United States of work, ..or of materials, ..or other property of any kind or character, if such agent or employee has any pecuniary interest in such contract or order, .. without making to the best of his knowledge and belief a full and complete disclosure in writing to such council, ..commission, or subordinate of any...pecuniary interest

which he may have in such contract or order. . . Any willful violation of any of the provisions of this section shall be punishable by a fine of not more than \$10,000, or by imprisonment of not more than five years, or both.

SEC. 4. That it is hereby made unlawful for any person willfully to destroy any necessities for the purpose of enhancing the price or restricting the supply thereof; . . to hoard, as defined in section six of this Act, any necessities; to monopolize . . . any necessities; . .

SEC. 5. That, from time to time, whenever the President shall find it essential to license the importation, manufacture, storage, mining, or distribution of any necessities, in order to carry into effect any of the purposes of this Act, and shall publicly so announce, no person shall, after a date fixed in the announcement, engage in or carry on any such business specified in the announcement . . . unless he shall secure and hold a license issued pursuant to this section. The President is authorized to issue such licenses and to prescribe regulations for the issuance of licenses. . . Whenever the President shall find that any storage charge, commission, profit, or practice of any licensee is unjust, or unreasonable, or discriminatory and unfair, or wasteful, and shall order such licensee, within a reasonable time fixed in the order, to discontinue the same, unless such order, which shall recite the facts found, is revoked or suspended, such licensee shall, within the time prescribed in the order, discontinue such . . . practice. The President may, . . find what is a just, reasonable, nondiscriminatory and fair storage charge, . . or practice, and in any proceeding brought in any court such order of the President shall be *prima facie* evidence. Any person who, without a license issued pursuant to this section, or whose license shall have been revoked, knowingly engages in or carries on any business for which a license is required under this section, or willfully fails or refuses to discontinue any unjust, . . storage charge . . . or practice, in accordance with . . this section, shall, upon conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for not more than two years, or both: . .

SEC. 6. That any person who willfully hoards any necessities shall upon conviction thereof be fined not exceeding \$5,000 or be imprisoned for not more than two years, or both. Necessaries shall be deemed to be hoarded within the meaning of this Act when either (a) held, . . by any person in a quantity in excess of his reasonable requirements for use or consumption by himself and dependents for a reasonable time; (b) held, . . by any manufacturer, . . or other dealer in a quantity in excess of the reasonable requirements of his business for

use or sale by him for a reasonable time . . ; or (c) withheld, whether by possession or under any contract or arrangement, from the market by any person for the purpose of unreasonably increasing or diminishing the price: . . *Provided, however,* That any accumulating or withholding by any farmer or gardener . . or any person, of the products of any farm, garden, or other land owned, . . or cultivated by him shall not be deemed to be hoarding within the meaning of this Act.

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SEC. 8. That any person who willfully destroys any necessities for the purpose of enhancing the price or restricting the supply thereof shall, upon conviction thereof, be fined not exceeding \$5,000 or imprisoned for not more than two years, or both.

SEC. 9. That any person who conspires, . . (a) to limit the facilities for transporting, producing, . . or dealing in any necessities; (b) to restrict the supply of any necessities; (c) to restrict the distribution of any necessities; (d) to prevent, . . or lessen the manufacture or production of any necessities in order to enhance the price thereof shall, upon conviction thereof, be fined not exceeding \$10,000 or be imprisoned for not more than two years, or both.

SEC. 10. That the President is authorized, from time to time, to requisition foods, feeds, fuels, and other supplies necessary to the support of the Army or the maintenance of the Navy, or any other public use connected with the common defense, . . and he shall ascertain and pay a just compensation therefor. If the compensation so determined be not satisfactory to the person entitled to receive the same, such person shall be paid seventy-five per centum of the amount so determined by the President, and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum will make up such amount as will be just compensation for such necessities or storage space, and jurisdiction is hereby conferred on the United States District Courts to hear and determine all such controversies. . .

SEC. 11. That the President is authorized from time to time to purchase, to store, . . and to sell for cash at reasonable prices, wheat, flour, meal, beans, and potatoes: . .

SEC. 12. That whenever the President shall find it necessary to secure an adequate supply of necessities for the support of the Army or the maintenance of the Navy, or for any other public use connected with the common defense, he is authorized to requisition and take over, for use or operation by the Government, any factory, packing house, . . or other plant . . in or through which any necessities . . may be manufactured, . . and to operate the same. Whenever the President

shall determine that the further use or operation by the Government of any such factory, mine, or plant . . . is not essential for the national security or defense, the same shall be restored to the person entitled to the possession thereof. The United States shall make just compensation, to be determined by the President, for the taking over, . . . of any such factory, mine, or plant, or part thereof. . .

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SEC. 14. That whenever the President shall find that an emergency exists requiring stimulation of the production of wheat and that it is essential that the producers of wheat, produced within the United States, shall have the benefits of the guaranty provided for in this section, he is authorized, . . . to determine and fix and to give public notice of what, under specified conditions, is a reasonable guaranteed price for wheat, in order to assure such producers a reasonable profit. The President shall thereupon fix such guaranteed price. . . Thereupon, the Government of the United States hereby guarantees every producer of wheat produced within the United States, that, upon compliance by him with the regulations prescribed, he shall receive for any wheat produced in reliance upon this guarantee within the period, not exceeding eighteen months, prescribed in the notice, a price not less than the guaranteed price therefor as fixed pursuant to this section. . . The guaranteed prices for the several standard grades of wheat for the crop of nineteen hundred and eighteen, shall be based upon number one northern spring or its equivalent at not less than \$2 per bushel at the principal interior primary markets. This guaranty shall not be dependent upon the action of the President under the first part of this section, but is hereby made absolute and shall be binding until May first, nineteen hundred and nineteen. . .

SEC. 15. That from and after thirty days from the date of the approval of this Act no foods, fruits, food materials, or feeds shall be used in the production of distilled spirits for beverage purposes: . . . Nor shall there be imported into the United States any distilled spirits. Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. . .

SEC. 16. That the President is authorized and directed to commandeer any or all distilled spirits in bond or in stock at the date of the approval of this Act for redistillation, in so far as such redistillation may be necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies. . .

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SEC. 24. That the provisions of this Act shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated, and the fact and date of such termination shall be ascertained and proclaimed by the President; . .

SEC. 25. That the President of the United States shall be, . . empowered, whenever and wherever in his judgment necessary for the efficient prosecution of the war, to fix the price of coal and coke, wherever and whenever sold . . . to regulate the method of production, sale, shipment, . . or storage thereof among dealers and consumers. . .

.....

Or if the President of the United States shall be of the opinion that he can thereby better provide for the common defense, and whenever, in his judgment, it shall be necessary for the efficient prosecution of the war, then he is hereby authorized and empowered to require . . . producers of coal and coke, either in any special area . . . or in the entire United States, to sell their products only to the United States through an agency to be designated by the President, such agency to regulate the resale of such coal and coke, and the prices thereof . . . and to regulate the methods of production, shipment, . . or storage thereof among dealers and consumers, domestic or foreign, and to make payment of the purchase price thereof to the producers thereof, or to the person or persons legally entitled to said payment.

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SEC. 26. That any person . . . employed in commerce among the several States, or with foreign nations, or with or in the Territories or other possessions of the United States in any article suitable for human food, fuel, or other necessities of life, who, . . shall store, acquire, or hold, or who shall destroy . . . any such article for the purpose of limiting the supply thereof to the public . . . shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both: *Provided*, That any storing or holding by any farmer, gardener, or other person of the products of any farm, garden, or other land cultivated by him shall not be deemed to be a storing or holding within

the meaning of this Act:.. Nothing contained in this section shall be construed to repeal the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," approved July second, eighteen hundred and ninety, commonly known as the Sherman Antitrust Act.

SEC. 27. That the President is authorized to procure, or aid in procuring, such stocks of nitrate of soda as he may determine to be necessary, and find available, for increasing agricultural production during the calendar years nineteen hundred and seventeen and eighteen, and to dispose of the same for cash at cost, including all expenses connected therewith. . .

Approved, August 10, 1917.

256. THE FOURTEEN POINTS

In all the western countries engaged in the war against Germany, there had been a determination among liberals that the war should be waged to bring about a better international state of things and not for territorial gains to the Allied powers. Under the circumstances, publication by the Russian Bolshevik government of the partition treaties found in the archives of the overthrown czarist government, outraged liberal opinion throughout western Europe. Wilson seized the opportunity to place the struggle on a higher plane by announcing on January 8, 1918, the following idealist program, looking to a better international order of things. His announcement put him forward as a spokesman of liberal opinion throughout the world.

Senate Journal, 65 Congress, 2 session, pp. 35-36.

THE President of the United States addressed the two Houses of Congress, as follows:

GENTLEMEN OF THE CONGRESS:..

.....

It will be our wish and purpose that the processes of peace, when they are begun, shall be absolutely open and that they shall involve and permit henceforth no secret understandings of any kind. The day of conquest and aggrandizement is gone by; so is also the day of secret covenants entered into in the interest of particular governments and likely at some unlooked-for moment to upset the peace of the world. It is this happy fact, now clear to the view of every public man whose thoughts do not still linger in an age that is dead and gone, which

makes it possible for every nation whose purposes are consistent with justice and the peace of the world to avow now or at any other time the objects it has in view.

We entered this war because violations of right had occurred which touched us to the quick and made the life of our own people impossible unless they were corrected and the world secured once for all against their recurrence. What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world as against force and selfish aggression. All the peoples of the world are in effect partners in this interest, and for our own part we see very clearly that unless justice be done to others it will not be done to us. The programme of the world's peace, therefore, is our programme; and that programme, the only possible programme, as we see it, is this:

I. Open covenants of peace, openly arrived at, after which there shall be no private international understandings of any kind but diplomacy shall proceed always frankly and in the public view.

II. Absolute freedom of navigation upon the seas, outside territorial waters, alike in peace and in war, except as the seas may be closed in whole or in part by international action for the enforcement of international covenants.

III. The removal, so far as possible, of all economic barriers and the establishment of an equality of trade conditions among all the nations consenting to the peace and associating themselves for its maintenance.

IV. Adequate guarantees given and taken that national armaments will be reduced to the lowest point consistent with domestic safety.

V. A free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principle that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined.

VI. The evacuation of all Russian territory and such a settlement of all questions affecting Russia as will secure the best and freest co-operation of the other nations of the world in obtaining for her an unhampered and unembarrassed opportunity for the independent determination of her own political development and national policy and assure her of a sincere welcome into the society of free nations under institutions of her own choosing. . .

VII. Belgium, the whole world will agree, must be evacuated and restored, without any attempt to limit the sovereignty which she enjoys in common with all other free nations. . .

VIII. All French territory should be freed and the invaded portions restored, and the wrong done to France by Prussia in 1871 in the matter of Alsace-Lorraine, which has unsettled the peace of the world for nearly fifty years, should be righted, in order that peace may once more be made secure in the interest of all.

IX. A readjustment of the frontiers of Italy should be effected along clearly recognizable lines of nationality.

X. The peoples of Austria-Hungary, whose place among the nations we wish to see safeguarded and assured, should be accorded the freest opportunity of autonomous development.

XI. Rumania, Serbia, and Montenegro should be evacuated; occupied territories restored; Serbia accorded free and secure access to the sea; and the relations of the several Balkan states to one another determined by friendly counsel along historically established lines of allegiance and nationality; and international guarantees of the political and economic independence and territorial integrity of the several Balkan states should be entered into.

XII. The Turkish portions of the present Ottoman Empire should be assured a secure sovereignty, but the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development, and the Dardanelles should be permanently opened as a free passage to the ships and commerce of all nations under international guarantees.

XIII. An independent Polish state should be erected which should include the territories inhabited by indisputably Polish populations, which should be assured a free and secure access to the sea, and whose political and economic independence and territorial integrity should be guaranteed by international covenant.

XIV. A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike.

In regard to these essential rectifications of wrong and assertions of right we feel ourselves to be intimate partners of all the governments and peoples associated together against the Imperialists. We cannot be separated in interest or divided in purpose. We stand together until the end. . .

257. RAILWAY ADMINISTRATION ACT

Approved March 21, 1918; three months before the United States had taken over control of the railroads of the country as a war measure. The act dealt with the problem of returns to the investors during the period of Government administration. Compare with the Esch-Cummins Act, No. 267.

Statutes at Large of the United States, Vol. 40, Public Laws, pp. 451-458.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, having in time of war taken over the possession, use, control, and operation (called herein Federal control) of certain railroads and systems of transportation (called herein carriers), is hereby authorized to agree with and to guarantee to any such carrier making operating returns to the Interstate Commerce Commission, that during the period of such Federal control it shall receive as just compensation an annual sum, payable from time to time in reasonable installments, for each year and pro rata for any fractional year of such Federal control, not exceeding a sum equivalent as nearly as may be to its average annual railway operating income for the three years ended June thirtieth, nineteen hundred and seventeen.

That any railway operating income accruing during the period of Federal control in excess of such just compensation shall remain the property of the United States. . .

.....

Every such agreement shall also contain adequate and appropriate provisions for the maintenance, repair, renewals, and depreciation of the property, for the creation of any reserves or reserve funds found necessary in connection therewith, and for such accounting and adjustments of charges and payments, both during and at the end of Federal control as may be requisite in order that the property of each carrier may be returned to it in substantially as good repair and in substantially as complete equipment as it was in at the beginning of Federal control, and also that the United States may, by deductions from the just compensations or by other proper means and charges, be reimbursed for the cost of any additions, repairs, renewals, and betterments to such property not justly chargeable to the United States; in making such accounting and adjustments, due consideration shall be given to the

amounts expended or reserved by each carrier for maintenance, repairs, renewals, and depreciation during the three years ended June thirtieth, nineteen hundred and seventeen, to the condition of the property at the beginning and at the end of Federal control and to any other pertinent facts and circumstances.

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SEC. 2. That if no such agreement is made, or pending the execution of an agreement, the President may nevertheless pay to any carrier while under Federal control an annual amount, payable in reasonable installments, not exceeding ninety per centum of the estimated annual amount of just compensation, remitting such carrier, in case where no agreement is made, to its legal rights for any balance claimed to the remedies provided in section three hereof . . .

SEC. 3. That all claims for just compensation not adjusted (as provided in section one) shall, on the application of the President or of any carrier, be submitted to boards, each consisting of three referees to be appointed by the Interstate Commerce Commission, members of which and the official force thereof being eligible for service on such boards without additional compensation. . . The President is authorized to enter into an agreement with such carrier for just compensation upon a basis not in excess of that reported by such board, and may include therein provisions similar to those authorized under section one. Failing such agreement, either the United States or such carrier may file a petition in the Court of Claims for the purpose of determining the amount of such just compensation, and in the proceedings in said court the report of said referees shall be prima facie evidence of the amount of just compensation and of the facts therein stated. Proceedings in the Court of Claims under this section shall be given precedence and expedited in every practicable way.

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SEC. 5. That no carrier while under Federal control shall, without the prior approval of the President, declare or pay any dividend in excess of its regular rate of dividends during the three years ended June thirtieth, nineteen hundred and seventeen: *Provided, however,* That such carriers as have paid no regular dividends or no dividends during said period may, with the prior approval of the President, pay dividends at such rate as the President may determine.

SEC. 6. That the sum of \$500,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, which, to-

gether with any funds available from any operating income of said carriers, may be used by the President as a revolving fund for the purpose of paying the expenses of the Federal control, and so far as necessary the amount of just compensation, and to provide terminals, motive power, cars, and other necessary equipment, such terminals, motive power, cars, and equipment to be used and accounted for as the President may direct and to be disposed of as Congress may hereafter by law provide.

The President may also make or order any carrier to make any additions, betterments, or road extensions, and to provide terminals, motive power, cars and other equipment necessary or desirable for war purposes or in the public interest on or in connection with the property of any carrier. He may from said revolving fund advance to such carrier all or any part of the expense of such additions, betterments, or road extensions, and to provide terminals, motive power, cars, and other necessary equipment so ordered and constructed by such carrier or by the President, such advances to be charged against such carrier and to bear interest at such rate and be payable on such terms as may be determined by the President, to the end that the United States may be fully reimbursed for any sums so advanced.

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SEC. 10. ...

That during the period of Federal control, whenever in his opinion the public interest requires, the President may initiate rates, fares, charges, classifications, regulations, and practices by filing the same with the Interstate Commerce Commission, which said rates, fares, charges, classifications, regulations, and practices shall not be suspended by the commission pending final determination.

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SEC. 14. That the Federal control of railroads and transportation systems herein and heretofore provided for shall continue for and during the period of the war and for a reasonable time thereafter, which shall not exceed one year and nine months next following the date of the proclamation by the President of the exchange of ratifications of the treaty of peace: *Provided, however,* That the President may, prior to July first, nineteen hundred and eighteen, relinquish control of all or any part of any railroad or system of transportation, further Federal control of which the President shall deem not needful or desirable; and the President may at any time during the period of Federal control agree with the owners thereof to relinquish all or any part of any

railroad or system of transportation. The President may relinquish all railroads and systems of transportation under Federal control at any time he shall deem such action needful or desirable. No right to compensation shall accrue to such owners from and after the date of relinquishment for the property so relinquished.

SEC. 15. That nothing in this Act shall be construed to amend, repeal, impair, or affect the existing laws or powers of the States in relation to taxation or the lawful police regulations of the several States, except wherein such laws, powers, or regulations may affect the transportation of troops, war materials, Government supplies, or the issue of stocks and bonds.

SEC. 16. That this Act is expressly declared to be emergency legislation enacted to meet conditions growing out of war; and nothing herein is to be construed as expressing or prejudicing the future policy of the Federal Government concerning the ownership, control, or regulation of carriers or the method or basis of the capitalization thereof.

Approved, March 21, 1918.

258. AMENDMENT TO THE ESPIONAGE ACT

Approved May 16, 1918. The following act went close to violating the constitutional privilege of freedom of speech and action. Public opinion, however, went much further than the act itself.

Statutes at Large of the United States, Vol. 40, Public Laws, pp. 553-554.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of title one of the Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June fifteenth, nineteen hundred and seventeen, be, and the same is hereby, amended so as to read as follows:

"SEC. 3. Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, or to promote the success of its enemies, or shall willfully make or convey false reports or false statements, or say or do anything except by way of bona fide and not disloyal advice to an

investor or investors, with intent to obstruct the sale by the United States of bonds or other securities of the United States or the making of loans by or to the United States, and whoever, when the United States is at war, shall willfully cause or attempt to cause, or incite or attempt to incite, insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct or attempt to obstruct the recruiting or enlistment service of the United States, and whoever, when the United States is at war, shall willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States, or any language intended to bring the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute, or shall willfully utter, print, write, or publish any language intended to incite, provoke, or encourage resistance to the United States, or to promote the cause of its enemies, or shall willfully display the flag of any foreign enemy, or shall willfully by utterance, writing, printing, publication, or language spoken, urge, incite, or advocate any curtailment of production in this country of any thing or things, product or products, necessary or essential to the prosecution of the war in which the United States may be engaged, with intent by such curtailment to cripple or hinder the United States in the prosecution of the war, and whoever shall willfully advocate, teach, defend, or suggest the doing of any of the acts or things in this section enumerated, and whoever shall by word or act support or favor the cause of any country with which the United States is at war or by word or act oppose the cause of the United States therein, shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both: *Provided*, That any employee or official of the United States Government who commits any disloyal act or utters any unpatriotic or disloyal language, or who, in an abusive and violent manner criticizes the Army or Navy or the flag of the United States shall be at once dismissed from the service. Any such employee shall be dismissed by the head of the department in which the employee may be engaged, and any such official shall be dismissed by the authority having power to appoint a successor to the dismissed official."

Title XII of the said Act of June fifteenth, nineteen hundred and seventeen, be, and the same is hereby, amended by adding thereto the following section:

"SEC. 4. When the United States is at war, the Postmaster General may, upon evidence satisfactory to him that any person or concern is using the mails in violation of any of the provisions of this Act, instruct the postmaster at any post office at which mail is received addressed to such person or concern to return to the postmaster at the office at which they were originally mailed all letters or other matter so addressed, with the words 'Mail to this address undeliverable under Espionage Act' plainly written or stamped upon the outside thereof, and all such letters or other matter so returned to such postmasters shall be by them returned to the senders thereof under such regulations as the Postmaster General may prescribe."

Approved, May 16, 1918.

259. THE OVERMAN ACT

Approved May 20, 1918. This act for war purposes, allowed the President of the United States to reorganize the whole executive machinery as he saw fit.

Statutes at Large of the United States, Vol. 40, Public Laws, pp. 556-557.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the national security and defense, for the successful prosecution of the war, for the support and maintenance of the Army and Navy, for the better utilization of resources and industries, and for the more effective exercise and more efficient administration by the President of his powers as Commander in Chief of the land and naval forces the President is hereby authorized to make such redistribution of functions among executive agencies as he may deem necessary, including any functions, duties, and powers hitherto by law conferred upon any executive department, commission, bureau, agency, office, or officer, in such manner as in his judgment shall seem best fitted to carry out the purposes of this Act, and to this end is authorized to make such regulations and to issue such orders as he may deem necessary, which regulations and orders shall be in writing and shall be filed with the head of the department affected and constitute a public record: *Provided*, That this Act shall remain in force during the continuance of the present war and for six months after

the termination of the war by the proclamation of the treaty of peace, or at such earlier time as the President may designate: *Provided further*, That the termination of this Act shall not affect any act done or any right or obligation accruing or accrued pursuant to this Act and during the time that this Act is in force: *Provided further*, That the authority by this Act granted shall be exercised only in matters relating to the conduct of the present war.

SEC. 2. That in carrying out the purposes of this Act the President is authorized to utilize, coordinate, or consolidate any executive or administrative commissions, bureaus, agencies, offices, or officers now existing by law, to transfer any duties or powers from one existing department, commission, bureau, agency, office, or officer to another, to transfer the personnel thereof or any part of it either by detail or assignment, together with the whole or any part of the records and public property belonging thereto.

SEC. 3. That the President is further authorized to establish an executive agency which may exercise such jurisdiction and control over the production of aeroplanes, aeroplane engines, and aircraft equipment as in his judgment may be advantageous; and, further, to transfer to such agency, for its use, all or any moneys heretofore appropriated for the production of aeroplanes, aeroplane engines, and aircraft equipment.

SEC. 4. That for the purpose of carrying out the provisions of this Act, any moneys heretofore and hereafter appropriated for the use of any executive department, commission, bureau, agency, office, or officer shall be expended only for the purposes for which it was appropriated under the direction of such other agency as may be directed by the President hereunder to perform and execute said function.

SEC. 5. That should the President, in redistributing the functions among the executive agencies as provided in this Act, conclude that any bureau should be abolished and it or their duties and functions conferred upon some other department or bureau or eliminated entirely, he shall report his conclusions to Congress with such recommendations as he may deem proper.

SEC. 6. That all laws or parts of laws conflicting with the provisions of this Act are to the extent of such conflict suspended while this Act is in force.

Upon the termination of this Act all executive or administrative agencies, departments, commissions, bureaus, offices, or officers shall exercise the same functions, duties, and powers as heretofore or as hereafter by law may be provided, any authorization of the President under this Act to the contrary notwithstanding.

Approved, May 20, 1918.

260. THE MAN POWER ACT

Approved August 31, 1918.

Statutes at Large of the United States, Vol. 40, Public Laws,
pp. 955-957.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section two of the Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States," .. is hereby, amended to read as follows:

Such draft as herein provided shall be based upon liability to military service of all male citizens and male persons residing in the United States, not alien enemies, who have declared their intention to become citizens, between the ages of eighteen and forty-five, both inclusive, and shall take place and be maintained under such regulations as the President may prescribe not inconsistent with the terms of this Act: *Provided*, That the President may draft such persons liable to military service in such sequence of ages and at such time or times as he may prescribe: *Provided further*, That a citizen or subject of a country neutral in the present war who has declared his intention to become a citizen of the United States shall be relieved from liability to military service upon his making a declaration, in accordance with such regulations as the President may prescribe, withdrawing his intention to become a citizen of the United States, which shall . . . cancel his declaration of intention to become an American citizen, and he shall forever be debarred from becoming a citizen of the United States.

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SEC. 3. That section five of said Act be, and is hereby, amended to read as follows:

That all male persons between the ages of eighteen and forty-five, both inclusive, shall be subject to registration in accordance with regulations to be prescribed by the President, .. and any person who shall willfully fail or refuse to present himself for registration or to submit thereto as herein provided shall be guilty of a misdemeanor. . . *Provided further*, That the President may at such intervals as he may desire from time to time require all male persons who have attained the age of eighteen years since the last preceding date of registration and on or before the next date set for registration by proclamation by the President, except such persons as are exempt from registration hereunder, to register in the same manner and subject to the same

requirements and liabilities as those previously registered under the terms hereof: . .

SEC. 4. That all men rendered available for induction into the military service of the United States through registration or draft heretofore or hereafter made pursuant to law, shall be liable to service in the Army or the Navy or the Marine Corps, and shall be allotted to the Army, the Navy, and the Marine Corps under regulations to be prescribed by the President: *Provided*, That all persons drafted and allotted to the Navy or the Marine Corps in pursuance hereof shall, from the date of allotment, be subject to the laws and regulations governing the Navy and the Marine Corps, respectively.

SEC. 5. That the wife of a soldier or sailor serving in the present war shall not be disqualified for any position or appointment under the Government because she is a married woman.

SEC. 6. That soldiers, during the present emergency, regardless of age and existing law and regulations, shall be eligible to receive commissions in the Army of the United States. They shall likewise be eligible to admission to officers' schools under such rules and regulations as may be adopted for entrance to such schools, but shall not be barred therefrom or discriminated against on account of age.

SEC. 7. That the Secretary of War is authorized to assign to educational institutions, for special and technical training, soldiers who enter the military service under the provisions of this Act in such numbers and under such regulations as he may prescribe; . .

SEC. 8. That any person, under the age of twenty-one, who has served or shall hereafter serve in the Army of the United States during the present emergency, shall be entitled to the same rights under the homestead and other land and mineral entry laws, general or special, as those over twenty-one years of age now possess under said laws: . .

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Approved, August 31, 1918.

261. WILSON'S ARMISTICE NOTES

The following notes are the critical ones in a series of diplomatic exchanges through the neutral state of Switzerland by which Germany's surrender was negotiated.

American Journal of International Law, Supplement, Vol. 13, 1919, pp. 92-96. New York.

The Secretary of State to the Chargé d'Affaires of Switzerland.

DEPARTMENT OF STATE,
WASHINGTON.

October 23, 1918.

SIR:

I have the honor to acknowledge the receipt of your note of the twenty-second transmitting a communication under date of the twentieth from the German Government and to advise you that the President has instructed me to reply thereto as follows:

Having received the solemn and explicit assurance of the German Government that it unreservedly accepts the terms of peace laid down in his address to the Congress of the United States on the eighth of January, 1918, and the principles of settlement enunciated in his subsequent addresses, particularly the address of the twenty-seventh of September, and that it desires to discuss the details of their application, and that this wish and purpose emanate, not from those who have hitherto dictated German policy and conducted the present war on Germany's behalf, but from ministers who speak for the majority of the Reichstag and for an overwhelming majority of the German people; and having received also the explicit promise of the present German Government that the humane rules of civilized warfare will be observed both on land and sea by the German armed forces, the President of the United States feels that he cannot decline to take up with the governments with which the Government of the United States is associated the question of an armistice.

He deems it his duty to say again, however, that the only armistice he would feel justified in submitting for consideration would be one which should leave the United States and the powers associated with her in a position to enforce any arrangements that may be entered into and to make a renewal of hostilities on the part of Germany impossible. The President has, therefore, transmitted his correspondence with the present German authorities to the governments with which the Government of the United States is associated as a belligerent, with the suggestion that, if those governments are disposed to effect peace upon the terms and principles indicated, their military advisers and the military advisers of the United States be asked to submit to the governments associated against Germany the necessary terms of such an armistice as will fully protect the interests of the peoples involved and insure to the associated governments the unrestricted power to safeguard and enforce the details of the peace to which the German Government has agreed, provided they deem such an armistice possible from the military point of view. Should such terms of armistice be suggested, their acceptance by Germany will afford the best concrete evidence of her unequivocal acceptance of the terms and principles of peace from which the whole action proceeds.

The President would deem himself lacking in candor did he not point out in the frankest possible terms the reason why extraordinary safeguards must be demanded. Significant and important as the constitutional changes seem to be which are spoken of by the German Foreign Secretary in his note of the twentieth of October, it does not appear that the principle of a government responsible to the German people has yet been fully worked out or that any guarantees either exist or are in contemplation that the alterations of principle and of practice now partially agreed upon will be permanent. Moreover, it does not appear that the heart of the present difficulty has been reached. It may be that future wars have been brought under the control of the German people, but the present war has not been; and it is with the present war that we are dealing. It is evident that the German people have no means of commanding the acquiescence of the military authorities of the Empire in the popular will; that the power of the King of Prussia to control the policy of the Empire is unimpaired; that the determining initiative still remains with those who have hitherto been the masters of Germany. Feeling that the whole peace of the world depends now on plain speaking and straightforward action, the President deems it his duty to say, without any attempt to soften what may seem harsh words, that the nations of the world do not and cannot trust the word of those who have hitherto been the masters of German policy, and to point out once more that in concluding peace and attempting to undo the infinite injuries and injustices of this war the Government of the United States cannot deal with any but veritable representatives of the German people who have been assured of a genuine constitutional standing as the real rulers of Germany. If it must deal with the military masters and the monarchical autocrats of Germany now, or if it is likely to have to deal with them later in regard to the international obligations of the German Empire, it must demand, not peace negotiations, but surrender. Nothing can be gained by leaving this essential thing unsaid.

Accept, Sir, the renewed assurances of my high consideration.

(Signed) ROBERT LANSING.

MR. FREDERICK OEDERLIN,

Chargé d'Affaires of Switzerland ad interim,

In charge of German interests in the United States.

Chargé d'Affaires of Switzerland to the Secretary of State.

LEGATION OF SWITZERLAND,
WASHINGTON, D.C.

DEPARTMENT OF
GERMAN INTERESTS.

October 28, 1918.

SIR:

I am instructed by my government and have the honor to submit to Your Excellency the original German text of a communication from the German Government, dated October 27, 1918, which has today been received from the Swiss Foreign Office.

I beg leave also to enclose an English translation of the above-mentioned communication, the German text of which, however, is alone to be considered as authoritative.

Accept, sir, the renewed assurances of my highest consideration.

F. OEDERLIN.

Chargé d'Affaires ad interim of Switzerland.

His Excellency,

MR. ROBERT LANSING,

Secretary of State of the United States,
Washington.

Translation of a communication from the German Government dated October 27, 1918, as transmitted by the Chargé d'Affaires ad interim of Switzerland on October 28, 1918:

The German Government has taken cognizance of the reply of the President of the United States. The President knows the far-reaching changes which have taken place and are being carried out in the German constitutional structure. The peace negotiations are being conducted by a government of the people, in whose hands rests, both actually and constitutionally, the authority to make decisions. The military powers are also subject to this authority. The German Government now awaits the proposals for an armistice, which is the first step toward a peace of justice, as described by the President in his pronouncements.

(Signed) SOLF,

State Secretary of Foreign Affairs,

BERLIN, October 27, 1918.

The Secretary of State to the Minister of Switzerland.

DEPARTMENT OF STATE,
WASHINGTON.

November 5, 1918.

SIR:

I have the honor to request you to transmit the following communication to the German Government:

In my note of October 23, 1918, I advised you that the President had transmitted his correspondence with the German authorities to the governments with which the Government of the United States is associated as a belligerent, with the suggestion that, if those governments were disposed to effect peace upon the terms and principles indicated, their military advisers and the military advisers of the United States be asked to submit to the governments associated against Germany the necessary terms of such an armistice as would fully protect the interests of the peoples involved and ensure to the associated governments the unrestricted power to safeguard and enforce the details of the peace to which the German Government had agreed, provided they deemed such an armistice possible from the military point of view.

The President is now in receipt of a memorandum of observations by the Allied Governments on this correspondence, which is as follows:

"The Allied Governments have given careful consideration to the correspondence which has passed between the President of the United States and the German Government. Subject to the qualifications which follow they declare their willingness to make peace with the Government of Germany on the terms of peace laid down in the President's address to Congress of January, 1918, and the principles of settlement enunciated in his subsequent addresses. They must point out, however, that clause two relating to what is usually described as the freedom of the seas, is open to various interpretations, some of which they could not accept. They must, therefore, reserve to themselves complete freedom on this subject when they enter the peace conference.

"Further, in the conditions of peace, laid down in his address to Congress of January 8, 1918, the President declared that invaded territories must be restored as well as evacuated and freed. The Allied Governments feel that no doubt ought to be allowed to exist as to what this provision implies. By it they understand that compensation will be made by Germany for all damage done to the civilian population of the Allies and their property by the aggression of Germany by land, by sea, and from the air."

I am instructed by the President to say that he is in agreement with the interpretation set forth in the last paragraph of the memorandum above

quoted. I am further instructed by the President to request you to notify the German Government that Marshal Foch has been authorized by the Government of the United States and the Allied Governments to receive properly accredited representatives of the German Government, and to communicate to them terms of an armistice.

Accept, Sir, the renewed assurances of my highest consideration.

(Signed) ROBERT LANSING.

MR. HANS SULZER,

Minister of Switzerland,

In charge of German interests in the United States.

262. CONSTITUTION OF THE A. F. OF L., 1918-1919

The following is a description of the organization of the American Federation of Labor, the great conservative labor organization of the United States.

American Federation of Labor. History, Encyclopedia Reference Book, Vol. 1, pp. 47-53. Washington, 1919.

PREAMBLE — Whereas, A struggle is going on in all the nations of the civilized world between the oppressors and the oppressed of all countries, a struggle between the capitalist and the laborer, which grows in intensity from year to year, and will work disastrous results to the toiling millions if they are not combined for mutual protection and benefit. It, therefore, behooves the representatives of the Trade and Labor Unions of America, in convention assembled, to adopt such measures and disseminate such principles among the mechanics and laborers of our country as will permanently unite them to secure the recognition of rights to which they are justly entitled. We, therefore, declare ourselves in favor of the formation of thorough Federation, embracing every Trade and Labor Organization in America, organized under the Trade Union system.

CONSTITUTION — ARTICLE I — Name: This Association shall be known as The American Federation of Labor, and shall consist of such Trade and Labor Unions as shall conform to its rules and regulations.

ARTICLE II — Objects: Section 1. The object of this Federation shall be the encouragement and formation of local Trade and Labor Unions, and the closer federation of such societies through the organization of Central Trade and Labor Unions in every city, and the

further combination of such bodies into State, Territorial, or Provincial organizations to secure legislation in the interest of the working masses.

Sec. 2. The establishment of National and International Trade Unions, based upon a strict recognition of the autonomy of each trade, and the promotion and advancement of such bodies.

Sec. 3. The establishment of Departments composed of National or International Unions affiliated with the American Federation of Labor, of the same industry, and which Departments shall be governed in conformity with the laws of the American Federation of Labor.

Sec. 4. An American Federation of all National and International Trade Unions, to aid and assist each other; to aid and encourage the sale of union label goods, and to secure legislation in the interest of the working people, and influence public opinion, by peaceful and legal methods, in favor of organized labor.

Sec. 5. To aid and encourage the labor press of America.

ARTICLE III — Convention: Section 1. The Convention of the Federation shall meet annually at 10 A.M. on the second Monday in June, at such place as the delegates have selected at the preceding Convention.

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Sec. 8. Party politics, whether they be Democratic, Republican, Socialistic, Populistic, Prohibition, or any other, shall have no place in the Conventions of the American Federation of Labor.

Sec. 9. The rules and order of business governing the preceding Convention shall be in force from the opening of any Convention of the American Federation of Labor until new rules have been adopted by action of the Convention.

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ARTICLE IV — Representation: Section 1. The basis of representation in the Convention shall be: From National and International Unions, for less than four thousand members, one delegate; four thousand or more, two delegates; eight thousand or more, three delegates; sixteen thousand or more, four delegates; thirty-two thousand or more, five delegates, and so on. From Central Bodies, State Federations, Federal Labor Unions, and Local Unions having no National or International Union, one delegate; provided, however, that Local Unions and Federal Labor Unions herein referred to, located in one city, shall have the right to unite in sending a delegate to represent them unitedly. Only bona fide wage workers who are not members of, or eligible to membership in, other Trade Unions, shall be eligible as delegates from Federal Labor Unions.

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ARTICLE V — Officers: Section 1. The officers of the Federation shall consist of a President, eight Vice-Presidents, a Secretary, and a Treasurer, to be elected by the Convention on the last day of the session, and these officers shall be the Executive Council.

Sec. 2. The President and Secretary shall be members of the succeeding Convention in case they are not delegates, but without vote.

Sec. 3. All elective officers shall be members of a local organization connected with the American Federation of Labor.

Sec. 4. The terms of the officers of the American Federation of Labor shall expire on the first day of August succeeding the Convention.

Sec. 5. The President and Secretary shall engage suitable offices in the same building at Washington, D. C., for the transaction of the business of the organization.

Sec. 6. All books and financial accounts shall at all times be open to the inspection of the President and Executive Council.

ARTICLE VI — Duties of President: Section 1. It shall be the duty of the President to preside at the Annual Convention; to exercise supervision of the Federation throughout its jurisdiction; to sign all official documents, and to travel, with the consent of the Executive Council, whenever required, in the interest of the Federation.

Sec. 2. The President shall submit to the Secretary, at the end of each month, an itemized account of all moneys, traveling, and incidental, expended by him in the interest of the Federation; and shall report to the Annual Convention of the Federation, through the report of the Executive Council.

Sec. 3. The President, if not a delegate, shall have the casting vote in case of a tie, but shall not vote at other times. He shall be required to devote all his time to the interest of the Federation.

Sec. 4. The President shall call meetings of the Executive Council, when necessary, and shall preside over their deliberations, and shall receive for his services such sum as the Annual Convention may determine, payable weekly.

Sec. 5. In case of a vacancy in the office of President by death, resignation, or other cause, the Secretary shall perform the duties of the President until his successor is elected. In that event it shall be the duty of the Secretary to issue, within six days from the date of vacancy, a call for a meeting of the Executive Council at headquarters for the purpose of electing a President to fill said vacancy.

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ARTICLE IX — Executive Council: Section 1. It shall be the duty of the Executive Council to watch legislative measures directly

affecting the interests of working people, and to initiate, whenever necessary, such legislative action as the Convention may direct.

Sec. 2. The Executive Council shall use every possible means to organize new National or International Trade or Labor Unions, and to organize Local Trade and Labor Unions, and connect them with the Federation until such time as there is a sufficient number to form a National or International Union, when it shall be the duty of the President of the Federation to see that such organization is formed.

Sec. 3. When a National or International Union has been formed, the President shall notify all Local Unions of that trade to affiliate with such National or International Union, and unless said notification be complied with, within three months, their charters shall be revoked.

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Sec. 5. While we recognize the right of each trade to manage its own affairs, it shall be the duty of the Executive Council to secure the unification of all labor organizations, so far as to assist each other in any trade dispute.

Sec. 6. Whenever the revenue of the Federation shall warrant such action, the Executive Council shall authorize the sending out of Trade Union speakers from place to place in the interests of the Federation.

Sec. 7. The remuneration for organizers of the American Federation of Labor shall be \$7 per day as salary, actual railroad fare, and hotel expenses of \$4 per day when traveling away from their home city. The remuneration for services of members of the Executive Council, fraternal delegates, interpreters and speakers, or other persons temporarily employed by the American Federation of Labor shall be determined by the Executive Council.

Sec. 8. The Executive Council shall have power to make the rules to govern matters not in conflict with this Constitution, or the constitution of affiliated unions, and shall report accordingly to the Federation.

Sec. 9. In the event of a vacancy of any member of the Executive Council, other than that of the President, by reason of death, resignation, or other cause, the President shall make such vacancy known to the Executive Council, and shall call for nominations. The names of all nominees shall be submitted to the Executive Council, and it shall require a majority vote of the Executive Council to elect. Upon each unsuccessful balloting the name of the candidate receiving the lowest number of votes shall be dropped.

Sec. 10. All Local Trade Unions and Federal Labor Unions holding charters direct from the American Federation of Labor,

desiring the assistance of the American Federation of Labor in trade disputes, shall submit to the President of the American Federation of Labor for approval by the Executive Council the full statement of the grievance, and shall receive within twenty (20) days from the President an answer as to whether they will be sustained or not, and no benefits shall be paid where a strike takes place before the Local Union has received the approval of the Executive Council.

Sec. 11. No charter shall be granted by the American Federation of Labor to any National, International, Trade, or Federal Labor Union without a positive and clear definition of the trade jurisdiction claimed by the applicant, and the charter shall not be granted if the jurisdiction claimed is a trespass on the jurisdiction of existing affiliated unions, without the written consent of such unions; no affiliated International, National or Local Union shall be permitted to change its title or name, if any trespass is made thereby on the jurisdiction of an affiliated organization, without having first obtained the consent and approval of a Convention of the American Federation of Labor; and it is further provided that should any of the members of such National, International, Trade, or Federal Labor Union work at any other vocation, trade, or profession, they shall join the union of such vocation, trade, or profession, provided such are organized and affiliated with the American Federation of Labor.

Sec. 12. The Executive Council of the American Federation of Labor shall only have power to revoke the charter of an affiliated National or International Union when the revocation has been ordered by a two-thirds majority of a regular Convention of the American Federation of Labor, by a roll-call vote.

ARTICLE X — Revenue: Section 1. The revenue of the Federation shall be derived from a per capita tax to be paid upon the full paid-up membership of all affiliated bodies, as follows: From International or National Trade Unions, a per capita tax of seven-eighths of one cent per member per month; from Local Trade Unions and Federal Labor Unions, fifteen cents per member per month, five cents of which must be set aside to be used only in case of strike or lockout; Local Unions, the majority of whose members are less than eighteen (18) years of age, two cents per member per month; from Central and State bodies, \$10 per year, payable quarterly.

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ARTICLE XI — Local Central Bodies: Section 1. No Central Labor Union, or any other central body of delegates, shall admit to or

retain in their councils delegates from any local organization that owes its allegiance to any other body, National or International, hostile to any affiliated organization, or that has been suspended or expelled by, or not connected with, a National or International organization of their trade herein affiliated; nor are delegates to be seated from locals of National or International organizations which are not affiliated to the American Federation of Labor, under penalty of having their charter revoked for violation of their charter, subject to appeal to the next Convention.

Sec. 2. It shall be the duty of all National and International Unions affiliated with the American Federation of Labor to instruct their Local Unions to join chartered Central Labor Bodies, Departments, and State Federations in their vicinity where such exist. Similar instructions shall be given by the American Federation of Labor to all Trade and Federal Labor Unions under its jurisdiction.

Sec. 3. Where there are one or more Local Unions in any city belonging to any National or International Union affiliated with this Federation they may organize a Trades Assembly or Central Labor Union, or shall join such body if already in existence.

Sec. 4. The Executive Council and Local Central Labor Unions shall use all possible means to organize and connect as Local Unions to National or International Unions the organizations in their vicinity to aid the formation of National or International Unions where none exist, and to organize Federal Labor Unions where the number of craftsmen precludes any other form of organization.

Sec. 5. No Central Labor Union, or other central body of delegates, shall have the authority or power to order any organization, affiliated with such Central Labor Union, or other central labor body, on strike, where such organization has a national organization, until the proper authorities of such National or International organization have been consulted and agreed to such action.

Sec. 6. Separate charters may be issued to Central Labor Unions, Local Unions, or Federal Labor Unions, composed exclusively of colored members, where, in the judgment of the Executive Council, it appears advisable and to the best interest of the Trade Union movement to do so.

Sec. 7. No Central Labor Union, or other central body of delegates, shall have authority or power to originate a boycott, nor shall such bodies indorse and order the placing of the name of any person, firm, or corporation on an unfair list until the Local Union desiring the same has, before declaring the boycott, submitted the matter in dispute

to the Central Body for investigation, and the best endeavors on its part to effect an amicable settlement. Violation of this section shall forfeit charter.

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ARTICLE XII — Assessment in Defense of National and International Unions: Section 1. The Executive Council shall have power to declare a levy of one cent per member per week on all affiliated unions for a period not exceeding ten weeks in any one year, to assist in the support of an affiliated National or International Union engaged in a protracted strike or lockout.

Sec. 2. Any Union, International, National, or Local, failing to pay within sixty days the levies declared in accordance with Section 1 shall be deprived of representation in Convention of the American Federation of Labor and in the City Central Bodies affiliated with the American Federation of Labor.

ARTICLE XIII — Defense Fund for Local Trade and Federal Labor Unions: Section 1. The money of the defense fund shall be drawn only to sustain strikes or lockouts of Local Trade and Federal Labor Unions when such strikes or lockouts are authorized, indorsed, and conducted in conformity with the following provisions of this Article:

Sec. 2. In the event of a disagreement between a Local Union and an employer which, in the opinion of the Local Union, may result in a strike, such Union shall notify the President of the American Federation of Labor, who shall investigate, or cause an investigation to be made of the disagreement, and endeavor to adjust the difficulty. If his efforts should prove futile, he shall take such steps as he may deem necessary in notifying the Executive Council, and if the majority of said Council shall decide that a strike is necessary such Union shall be authorized to order a strike, but that under no circumstances shall a strike or lockout be deemed legal, or moneys expended from the defense fund on that account, unless the strike or lockout shall have been first authorized and approved by the President and Executive Council.

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ARTICLE XVI — A m e n d m e n t s : This Constitution can be amended or altered only at a regular session of the Convention and to do so it shall require a two-thirds vote.

263. THE INDUSTRIAL WORKERS OF THE WORLD

With a conservative labor organization like the American Federation of Labor may be contrasted a radical one such as the I. W. W. The following extracts illustrate its economic philosophy and its program. The first is from The Truth About the I. W. W., p. 11. New York, 1918. The second is from a publication of the organization. Extracts from Verbatim Report of 16th Convention, Chicago, n. d.

THE I. W. W. is a symptom of a distressing industrial status... All the famous revolutionary movements of history gained their cause-for-being from some intimate and unendurable oppression and their behavior-in-revolt reflected the degree of their suffering. The chartist and early trade union riots in England, the revolution of 1789 in France, the Nihilists' killings in Russia, the bitter attacks on the railroads by the Grangers of the Northwest, the extremes into which the Anti-Saloon League propaganda has evolved, are a small part of the long revolt-catalogue of which the I. W. W. is the last entry. Each one of these movements had its natural psycho-political antecedents and much of the new history is devoted to a careful describing and re-valuation of them.

At some later... date the I. W. W. phenomenon will be dispassionately dissected in somewhat the following way:

(1) There were in 1910 in the United States some 10,400,000 unskilled male workers. Of these some 3,500,000 moved, by discharge or quitting, so regularly from one work town to another that they could be called migratory labor. Because of this unstable migratory life this labor class lost the conventional relationship to woman and child life, lost its voting franchise, lost its habit of common comfort or dignity, and gradually became consciously a social class with fewer legal or social rights than are conventionally ascribed to Americans. The cost of this experience was aggravated by the ability and habituation of this migratory class to read about and appreciate the higher social and economic life enjoyed by the American middle class.

(2) The unskilled labor class itself experienced a life not markedly more satisfying than the migratories. One fourth of the adult fathers of their families earned less than \$400 a year, one-half earned less than \$600. The minimum cost of a decent living for a family was approximately \$800. Unemployment, destitution and uncared-for sickness was a monotonous familiarity to them.

(3) The ... revolt against this social condition was conditioned and

colored by the disillusionment touching justice and industrial democracy and the personal and intimate indignities and sufferings experienced by the migratories. The revolt-organization of the migratories, called the I. W. W., failing most naturally to live up to the elevated legal...standards of the more comfortable trade union world, was visited by severe middle class censure and legal persecution.

PREAMBLE OF THE INDUSTRIAL WORKERS OF THE WORLD

The working class and the employing class have nothing in common. There can be no peace so long as hunger and want are found among millions of working people and the few, who make up the employing class, have all the good things of life.

Between these two classes a struggle must go on until the workers of the world organize as a class, take possession of the earth and the machinery of production and abolish the wage system.

We find that the centering of the management of industries into fewer and fewer hands makes the trade unions unable to cope with the ever growing power of the employing class. The trade unions foster a state of affairs which allows one set of workers to be pitted against another set of workers in the same industry, thereby helping defeat one another in wage wars. Moreover the trade unions aid the employing class to mislead the workers into the belief that the working class have (*sic*) interests in common with their employers.

These conditions can be changed and the interest of the working class upheld only by an organization formed in such a way that all its members in any one industry, or in all industries if necessary, cease work whenever a strike or lockout is on in any department thereof, thus making an injury to one an injury to all.

Instead of the conservative motto, "A fair day's wage for a fair day's work," we must inscribe on our banner the revolutionary watchword, "Abolition of the wage system."

It is the historic mission of the working class to do away with capitalism. The army of production must be organized not only for the everyday struggle with capitalists, but also to carry on production when capitalism shall have been overthrown. By organizing industrially we are forming the structure of the new society within the shell of the old.

264. THE EIGHTEENTH AMENDMENT

Passed Congress December 14, 1917, proclaimed January 29, 1918. The amendment went into effect January 29, 1920. The war prohibition act went into force in July, 1919, and remained in force until after the Eighteenth Amendment went into effect.

Statutes at Large of the United States, Vol. 40, Amendments, p. 1.

ARTICLE 18

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Sec. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

265. THE VOLSTEAD ACT

The following act for the enforcement both of the special wartime prohibition and of the Eighteenth Amendment was passed over the veto of President Wilson, October 28, 1919.

Statutes at Large of the United States, Vol. 41, Part 1, pp. 305-322.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the short title of this Act shall be the "National Prohibition Act."

TITLE I.

TO PROVIDE FOR THE ENFORCEMENT OF
WAR PROHIBITION.

The term "War Prohibition Act" used in this Act shall mean the provisions of any Act or Acts prohibiting the sale and manufacture of

intoxicating liquors until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States. The words "beer, wine, or other intoxicating malt or vinous liquors" in the War Prohibition Act shall be hereafter construed to mean any such beverages which contain one-half of 1 per centum or more of alcohol by volume:..

SEC. 2. The Commissioner of Internal Revenue, his assistants, agents, and inspectors, shall investigate and report violations of the War Prohibition Act to the United States attorney for the district in which committed, who shall be charged with the duty of prosecuting, subject to the direction of the Attorney General, the offenders as in the case of other offenses against laws of the United States; and such Commissioner of Internal Revenue, his assistants, agents, and inspectors may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury.

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TITLE II.

PROHIBITION OF INTOXICATING BEVERAGES.

SEC. 3. No person shall on or after the date when the eighteenth amendment to the Constitution of the United States goes into effect, manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor except as authorized in this Act, and all the provisions of this Act shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented.

Liquor for nonbeverage purposes and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, imported, exported, delivered, furnished and possessed, but only as herein provided, and the commissioner may, upon application, issue permits therefor: *Provided*, That nothing in this Act shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposit in Government bonded warehouses, and no special tax liability shall attach to the business of purchasing and selling such warehouse receipts.

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SEC. 6. No one shall manufacture, sell, purchase, transport, or prescribe any liquor without first obtaining a permit from the com-

missioner so to do, except that a person may, without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided, and except that any person who in the opinion of the commissioner is conducting a bona fide hospital or sanatorium engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations, and conditions as the commissioner shall prescribe, purchase and use, in accordance with the methods in use in such institution, liquor, to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

All permits to manufacture, prescribe, sell, or transport liquor, may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof:.. Permits to purchase liquor shall specify the quantity and kind to be purchased and the purpose for which it is to be used. No permit shall be issued to any person who within one year prior to the application therefor or issuance thereof shall have violated the terms of any permit issued under this Title or any law of the United States or of any State regulating traffic in liquor. No permit shall be issued to anyone to sell liquor at retail, unless the sale is to be made through a pharmacist designated in the permit and duly licensed under the laws of his State to compound and dispense medicine prescribed by a duly licensed physician. No one shall be given a permit to prescribe liquor unless he is a physician duly licensed to practice medicine and actively engaged in the practice of such profession. . .

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Nothing in this title shall be held to apply to the manufacture, sale, transportation, importation, possession, or distribution of wine for sacramental purposes, or like religious rites, except section 6 (save as the same requires a permit to purchase) and section 10 hereof, and the provisions of this Act prescribing penalties for the violation of either of said sections. No person to whom a permit may be issued to manufacture, transport, import, or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange, or furnish any such to any person not a rabbi, minister of the gospel, priest, or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister, or priest to supervise the manufacture of wine to be used for the purposes and

rites in this section mentioned, and the person so designated may, in the discretion of the commissioner, be granted a permit to supervise such manufacture.

SEC. 7. No one but a physician holding a permit to prescribe liquor shall issue any prescription for liquor. And no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought, or if such examination is found impracticable, then upon the best information obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once. Any pharmacist filling a prescription shall at the time indorse upon it over his own signature the word "canceled," together with the date when the liquor was delivered, and then make the same a part of the record that he is required to keep as herein provided.

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SEC. 18. It shall be unlawful to advertise, manufacture, sell, or possess for sale any utensil, contrivance, machine, preparation, compound, tablet, substance, formula direction, recipe advertised, designed, or intended for use in the unlawful manufacture of intoxicating liquor.

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SEC. 21. Any room, house, building, boat, vehicle, structure, or place where intoxicating liquor is manufactured, sold, kept, or bartered in violation of this title, and all intoxicating liquor and property kept and used in maintaining the same, is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or be imprisoned for not more than one year, or both...

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SEC. 25. It shall be unlawful to have or possess any liquor or property designed for the manufacture of liquor intended for use in violating this title or which has been so used, and no property rights shall exist in any such liquor or property... No search warrant shall issue to search any private dwelling occupied as such unless it is being used for the unlawful sale of intoxicating liquor, or unless it is in part used for some business purposes such as a store, shop, saloon, restaurant, hotel, or boarding house...

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SEC. 29. Any person who manufactures or sells liquor in violation of this title shall for a first offense be fined not more than \$1,000, or imprisoned not exceeding six months, and for a second or subsequent offense shall be fined not less than \$200 nor more than \$2,000 and be imprisoned not less than one month nor more than five years.

Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this title, or violates any of the provisions of this title, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than \$500; for a second offense not less than \$100 nor more than \$1,000, or be imprisoned not more than ninety days; for any subsequent offense he shall be fined not less than \$500 and be imprisoned not less than three months nor more than two years. . .

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SEC. 33. After February 1, 1920, the possession of liquors by any person not legally permitted under this title to possess liquor shall be prima facie evidence that such liquor is kept for the purpose of being sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the Provisions of this title. . . But it shall not be unlawful to possess liquors in one's private dwelling while the same is occupied and used by him as his dwelling only and such liquor need not be reported, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling and of his bona fide guests when entertained by him therein; and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed, and used.

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266. THE NINETEENTH AMENDMENT

Passed Congress June 4, 1919. Ratified August 26, 1920.

Statutes at Large of the United States, Vol. 41, Amendments, p. 1.

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ARTICLE 19.

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

267. THE ESCH-CUMMINS ACT

Approved February 28, 1920, it returned the railroads to private control as of March 1. See also No. 257.

Statutes at Large of the United States, Vol. 41, Public Laws, pp. 456-499.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE II.

TERMINATION OF FEDERAL CONTROL

SEC. 200. (a) Federal control shall terminate at 12.01 A.M., March 1, 1920; and the President shall then relinquish possession and control of all railroads and systems of transportation then under Federal control and cease the use and operation thereof.

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(c) Nothing in this Act shall be construed as affecting or limiting the power of the President in time of war (under section 1 of the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June 30, 1917, and for other purposes," approved August 29, 1916) to take possession and assume control of any system of transportation and utilize the same.

SEC. 202. The President shall, as soon as practicable after the termination of Federal control, adjust, settle, liquidate, and wind up all matters, including compensation, and all questions and disputes of whatsoever nature, arising out of or incident to Federal control. For these purposes and for the purpose of making the payments specified in subdivision (a) of section 201, all unexpended balances in the revolving fund created by the Federal Control Act or of the moneys appropriated by the Act entitled "An Act to supply a deficiency in the appropriation for carrying out the Act entitled 'An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes,' approved March 21, 1918," approved June 30, 1919, are hereby reappropriated and made available until expended; and all moneys derived from the operation of the carriers or otherwise arising out of Federal control, and all moneys that have been or may be received in payment of the indebtedness of any carrier to the United States arising out of Federal

control, shall be and remain available until expended for the aforesaid purposes; and there is hereby appropriated for the aforesaid purposes, out of any money in the Treasury not otherwise appropriated, \$200,000,000 in addition to the above, to be available until expended.

COMPENSATION OF CARRIERS WITH WHICH NO CONTRACT MADE.

SEC. 203. (a) Upon the request of any carrier entitled to just compensation under the Federal Control Act, but with which no contract fixing or waiving compensation has been made and which has made no waiver of compensation, the President: (1) shall pay to it so much of the amount he may determine to be just compensation as may be necessary to enable such carrier to have the sums required for interests, taxes, and other corporate charges and expenses referred to in paragraph (b) of section 7 of the standard contract between the United States and the carriers, accruing during the period for which such carrier is entitled to just compensation under the Federal Control Act, and also the sums required for dividends declared and paid during the same period, including, also, in addition, a sum equal to that proportion of such last dividend which the period between its payment and the termination of the period for which the carrier is entitled to just compensation under the Federal Control Act bears to the last dividend period; and (2) may, in his discretion, pay to such carrier the whole or any part of the remainder of such estimated amount of just compensation.

(b) The acceptance of any benefits by a carrier under this section —

(1) shall not deprive it of the right to claim additional compensation, which, unless agreed upon, shall be ascertained in the manner provided in section 3 of the Federal Control Act; but

(2) shall constitute an acceptance by the carrier of all the provisions of the Federal Control Act as modified by this Act, and obligate the carrier to pay to the United States, with interest at the rate of 6 per centum per annum from a date or dates fixed in proceedings under section 3 of the Federal Control Act, the amount by which the sums received on account of such compensation, under this section or otherwise, exceed the sum found due in such proceedings.

REIMBURSEMENT OF DEFICITS DURING FEDERAL
CONTROL.

SEC. 204...

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(c) As soon as practicable after March 1, 1920, the Commission shall ascertain for every carrier, for every month of the period of Federal control during which its railroad or system of transportation was not under Federal operation, its deficit in railway operating income, if any, and its railway operating income, if any, (hereinafter called "Federal control return"), and the average of its deficit in railway operating income, if any, and of its railway operating income, if any, for the three corresponding months of the test period taken together, (hereinafter called "test period return"):

(d) For every month of the period of Federal control during which the railroad or system of transportation of the carrier was not under Federal operation, the Commission shall then ascertain (1) the difference between its Federal control return, if a deficit, and its test period return, if a smaller deficit, or (2) the difference between its test period return, if an income, and its Federal control return, if a smaller income, or (3) the sum of its Federal control return, if a deficit, plus its test period return, if an income. The sum of such amounts shall be credited to the carrier.

(e) For every such month the Commission shall then ascertain (1) the difference between the carrier's Federal control return, if an income, and its test period return, if a smaller income, or (2) the difference between its test period return, if a deficit, and its Federal control return, if a smaller deficit, or (3) the sum of its Federal control return, if an income, plus its test period return, if a deficit. The sum of such amounts shall be credited to the United States.

(f) If the sum of the amounts so credited to the carrier under subdivision (d) exceeds the sum of the amounts so credited to the United States under subdivision (e), the difference shall be payable to the carrier...

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INSPECTION OF CARRIERS' RECORDS.

SEC. 205. The President shall have the right, at all reasonable times until the affairs of Federal control are concluded, to inspect the property and records of all carriers whose railroads or systems of trans-

portation were at any time under Federal control, whenever such inspection is necessary or appropriate (1) to protect the interests of the United States, or (2) to supervise matters being handled for the United States by agents of the carriers, or (3) to secure information concerning matters arising during Federal control, ..

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SEC. 206. (a) Actions at law, suits in equity and proceedings in admiralty, based on causes of action arising out of the possession, use, or operation by the President of the railroad or system of transportation of any carrier (under the provisions of the Federal Control Act, or of the Act of August 29, 1916) of such character as prior to Federal control could have been brought against such carrier, may, after the termination of Federal control, be brought against an agent designated by the President for such purpose, which agent shall be designated by the President within thirty days after the passage of this Act. . .

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SEC. 207. (a) As soon as practicable after the termination of Federal control the President shall ascertain (1) the amount of the indebtedness of each carrier of the United States, which may exist at the termination of Federal control, incurred for additions and betterments made during Federal control and properly chargeable to capital account; (2) the amount of indebtedness of such carrier to the United States otherwise incurred; and (3) the amount of the indebtedness of the United States to such carrier arising out of Federal control. The amount under clause (3) may be set off against either or both of the amounts under clauses (1) and (2), so far as deemed wise by the President, ..

(b) Any remaining indebtedness of the carrier to the United States in respect to such additions and betterments shall, at the request of the carrier, be funded for a period of ten years from the termination of Federal control, or a shorter period at the option of the carrier, with interest at the rate of 6 per centum per annum, payable semiannually, subject to the right of such carrier to pay, on any interest-payment day, the whole or any part of such indebtedness. Any carrier obtaining the funding of such indebtedness as aforesaid shall give, in the discretion of the President, such security, in such form and upon such terms, as he may prescribe.

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SEC. 208. (a) All rates, fares, and charges, .. which on February 29, 1920, are in effect on the lines of carriers subject to the Interstate

Commerce Act, shall continue in force and effect until thereafter changed by State or Federal authority, respectively, or pursuant to authority of law; but prior to September 1, 1920, no such rate, fare, or charge shall be reduced, .. unless such reduction or change is approved by the Commission.

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SEC. 209. (a) When used in this section —

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The term " guaranty period " means the six months beginning March 1, 1920.

The term " test period " means the three years ending June 30, 1917; and

.....

(c) The United States hereby guarantees —

(1) With respect to any carrier with which a contract ... has been made ... that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half the amount named in such contract as annual compensation, ..

(2) With respect to any carrier entitled to just compensation under the Federal Control Act, with which such a contract has not been made, that the railway operating income of such carrier for the guaranty period as a whole shall not be less than one-half of the annual amount estimated by the President as just compensation for such carrier under the Federal Control Act, ..

.....

NEW LOANS TO RAILROADS.

SEC. 210. (a) For the purpose of enabling carriers by railroad ... properly to serve the public during the transition period immediately following the termination of Federal control, any such carrier may, at any time after the passage of this Act and before the expiration of two years after the termination of Federal control, make application to the Commission for a loan from the United States, setting forth the amount of the loan and the term for which it is desired, the purpose of the loan and the uses to which it will be applied, ..

(b) If the Commission, after such hearing and investigation, .. as it may direct, finds that the making, .. of the proposed loan by the United States is necessary to enable the applicant properly to meet the transportation needs of the public, and that the prospective earning

power of the applicant and the character and value of the security offered are such as to furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor, .. the Commission may certify to the Secretary of the Treasury its findings of fact and its recommendations. . .

(c) Upon receipt of such certificate from the Commission, the Secretary of the Treasury, at any time before the expiration of twenty-six months after the termination of Federal control, is authorized to make a loan, not exceeding the maximum amount recommended in such certificate, out of any moneys in the revolving fund provided for in this section. All such loans shall bear interest at the rate of 6 per centum per annum, payable semiannually to the Secretary of the Treasury and to be placed to the credit of the revolving fund provided for in this section. . .

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SEC. 301. It shall be the duty of all carriers... to exert every reasonable effort... to avoid any interruption to the operation of any carrier growing out of any dispute between the carrier and the employees or subordinate officials thereof. All such disputes shall be considered and, if possible, decided in conference between representatives designated and authorized so to confer by the carriers, or the employees or subordinate officials thereof, directly interested in the dispute. If any dispute is not decided in such conference, it shall be referred by the parties thereto to the board which under the provisions of this title is authorized to hear and decide such dispute.

SEC. 302. Railroad Boards of Labor Adjustment may be established by agreement between any carrier, .. or the carriers as a whole, and any employees or subordinate officials of carriers, or organization or group of organizations thereof.

SEC. 303. Each such Adjustment Board shall, (1) upon the application of the chief executive of any carrier or organization of employees or subordinate officials whose members are directly interested in the dispute, (2) upon the written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, (3) upon the Adjustment Board's own motion, or (4) upon the request of the Labor Board whenever such board is of the opinion that the dispute is likely substantially to interrupt commerce, receive for hearing, and as soon as practicable and with due diligence decide, any dispute involving only grievances, rules, or working conditions, not decided as provided in section 301, between the carrier and its employees or subordinate officials. . .

SEC. 304. There is hereby established a board to be known as the "Railroad Labor Board" and to be composed of nine members as follows:

(1) Three members constituting the labor group, representing the employees and subordinate officials of the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by such employees in such manner as the Commission shall by regulation prescribe;

(2) Three members, constituting the management group, representing the carriers, to be appointed by the President, by and with the advice and consent of the Senate, from not less than six nominees whose nominations shall be made and offered by the carriers in such manner as the Commission shall by regulation prescribe; and

(3) Three members, constituting the public group, representing the public, to be appointed directly by the President, by and with the advice and consent of the Senate.

Any vacancy on the Labor Board shall be filled in the same manner as the original appointment.

SEC. 305. If either the employees or the carriers fail to make nominations and offer nominees in accordance with the regulations of the Commission, as provided in paragraphs (1) and (2) of section 304, within thirty days after the passage of this Act in case of any original appointment to the office of member of the Labor Board, or in case of a vacancy in any such office within fifteen days after such vacancy occurs, the President shall thereupon directly make the appointment, by and with the advice and consent of the Senate. In making any such appointment the President shall, as far as he deems it practicable, select an individual associated in interest with the carriers or employees thereof, whichever he is to represent.

SEC. 306. (a) Any member of the Labor Board who during his term of office is an active member or in the employ of or holds any office in any organization of employees or subordinate officials, or any carrier, or owns any stock or bond thereof, or is pecuniarily interested therein, shall at once become ineligible for further membership upon the Labor Board; but no such member is required to relinquish honorary membership in, or his rights in any insurance or pension or other benefit fund maintained by, any organization of employees or subordinate officials or by a carrier.

(b) Of the original members of the Labor Board, one from each group shall be appointed for a term of three years, one for two years, and one for one year. Their successors shall hold office for terms of

five years, except that any member appointed to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Each member shall receive from the United States an annual salary of \$10,000. A member may be removed by the President for neglect of duty or malfeasance in office, but for no other cause.

SEC. 307. (a) The Labor Board shall hear, and as soon as practicable and with due diligence decide, any dispute involving grievances, rules, or working conditions, in respect to which any Adjustment Board certifies to the Labor Board that in its opinion the Adjustment Board has failed or will fail to reach a decision within a reasonable time, or in respect to which the Labor Board determines that any Adjustment Board has so failed or is not using due diligence in its consideration thereof...

(b) The Labor Board, (1) upon the application of the chief executive of any carrier or organization of employees... whose members are directly interested in the dispute, (2) upon a written petition signed by not less than 100 unorganized employees or subordinate officials directly interested in the dispute, or (3) upon the Labor Board's own motion if it is of the opinion that the dispute is likely substantially to interrupt commerce, shall receive for hearing, and as soon as practicable and with due diligence decide, all disputes with respect to the wages or salaries of employees or subordinate officials of carriers, not decided as provided in section 301...

(c) A decision by the Labor Board under the provisions of paragraphs (a) or (b) of this section shall require the concurrence therein of at least 5 of the 9 members of the Labor Board: *Provided*, That in case of any decision under paragraph (b), at least one of the representatives of the public shall concur in such decision...

.....

SEC. 312. Prior to September 1, 1920, each carrier shall pay to each employee or subordinate official thereof wages or salary at a rate not less than that ... in effect in respect to such employee or subordinate official immediately preceding 12.01 a. m. March 1, 1920,...

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SEC. 407...

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(2) Whenever the Commission is of opinion, .. that the acquisition, .. by one of such carriers of the control of any other such carrier or carriers either under a lease or by the purchase of stock or in any other manner not involving the consolidation of such carriers into a

single system for ownership and operation, will be in the public interest, the Commission shall have authority by order to approve and authorize such acquisition, ..

.....

(4) The Commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained...

.....

(6) It shall be lawful for two or more carriers by railroad, subject to this Act, to consolidate their properties or any part thereof, into one corporation for the ownership, management, and operation of the properties theretofore in separate ownership, management, and operation, under the following conditions:

(a) The proposed consolidation must be in harmony with and in furtherance of the complete plan of consolidation mentioned in paragraph (5) and must be approved by the Commission;

.....

(c) Whenever two or more carriers propose a consolidation under this section, they shall present their application therefor to the Commission, and thereupon the Commission shall notify the Governor of each State in which any part of the properties sought to be consolidated is situated and the carriers involved in the proposed consolidation, of the time and place for a public hearing. If after such hearing the Commission finds that the public interest will be promoted by the consolidation... it may enter an order approving and authorizing such consolidation, with such modifications and upon such terms and conditions as it may prescribe, and thereupon such consolidation may be effected, in accordance with such order, if all the carriers involved assent thereto, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

(7) The power and authority of the Commission to approve and authorize the consolidation of two or more carriers shall extend and apply to the consolidation of four express companies into the American Railway Express Company, a Delaware corporation, if application for such approval and authority is made to the Commission within thirty days after the passage of this amendatory Act; and pending the decision of the Commission such consolidation shall not be dissolved.

(8) The carriers affected by any order made under the foregoing provisions of this section and any corporation organized to effect a consolidation approved and authorized in such order shall be, and they are hereby, relieved from the operation of the 'antitrust laws,' as designated in section 1 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914, and of all other restraints or prohibitions by law, State or Federal, in so far as may be necessary to enable them to do anything authorized or required by any order made under and pursuant to the foregoing provisions of this section.

.....

Approved, February 28, 1920.

268. THE PEACE RESOLUTIONS OF FEBRUARY–MARCH 1920

The Treaty of Versailles with the covenant of the League of Nations has never been ratified by the United States. They are so bulky that any attempt to extract from them within the limit of a book of readings is impossible. In their place is given the following attempt on the part of the Senate to ratify the Treaty of Versailles with reservations. As a two-thirds vote could not be obtained, the attempted ratification failed. The date is March 19, 1920.

Congressional Record, 66 Congress, 2 Session, Part 5, pp. 4599–4600.

THE roll call having been concluded, it resulted — yeas 49, nays 35, as follows:

YEAS — 49.

Ashurst	Gore	Myers	Spencer
Ball	Hale	New	Sterling
Beckham	Henderson	Nugent	Sutherland
Calder	Jones, Wash.	Owen	Trammell
Capper	Kellogg	Page	Wadsworth
Chamberlain	Kendrick	Phelan	Walsh, Mass.
Colt	Kenyon	Phipps	Walsh, Mont.
Curtis	Keyes	Pittman	Warren
Dillingham	King	Pomerene	Watson
Edge	Lenroot	Ransdell	Wolcott
Elkins	Lodge	Smith, Ga.	
Fletcher	McLean	Smith, Md.	
Frelinghuysen	McNary	Smoot	

NAYS — 35.

Borah	Gronna	McCormick	Shields
Brandeggee	Harris	McKellar	Simmons
Comer	Harrison	Moses	Smith, S. C.
Culbertson	Hitchcock	Norris	Stanley
Dial	Johnson, Calif.	Overman	Swanson
Fernald	Johnson, S. Dak.	Reed	Thomas
France	Kirby	Robinson	Underwood
Gay	Knox	Sheppard	Williams
Glass	La Follette	Sherman	

NOT VOTING — 12.

Cummins	Harding	Nelson	Poindexter
Fall	Jones, N. Mex.	Newberry	Smith, Ariz.
Gerry	McCumber	Penrose	Townsend

The PRESIDENT pro tempore. Upon agreeing to the resolution of ratification the yeas are 49 and the nays are 35. Not having received the affirmative votes of two-thirds of the Senators present and voting, the resolution is not agreed to, and the Senate does not advise and consent to the ratification of the treaty of peace with Germany.

The resolution of ratification voted upon and rejected is as follows:

Resolution of ratification.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the treaty of peace with Germany concluded at Versailles on the 28th day of June, 1919, subject to the following reservations and understandings, which are hereby made a part and condition of this resolution of ratification, which ratification is not to take effect or bind the United States until the said reservations and understandings adopted by the Senate have been accepted as a part and a condition of this resolution of ratification by the allied and associated powers and a failure on the part of the allied and associated powers to make objection to said reservations and understandings prior to the deposit of ratification by the United States shall be taken as a full and final acceptance of such reservations and understandings by said powers:

1. The United States so understands and construes article 1 that in case of notice of withdrawal from the League of Nations, as provided

in said article, the United States shall be the sole judge as to whether all its international obligations and all its obligations under the said covenant have been fulfilled, and notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States.

2. The United States assumes no obligation to preserve the territorial integrity or political independence of any other country by the employment of its military or naval forces, its resources, or any form of economic discrimination, or to interfere in any way in controversies between nations, including all controversies relating to territorial integrity or political independence, whether members of the league or not, under the provisions of article 10, or to employ the military or naval forces of the United States, under any article of the treaty for any purpose, unless in any particular case the Congress, which, under the Constitution, has the sole power to declare war or authorize the employment of the military or naval forces of the United States, shall, in the exercise of full liberty of action, by act or joint resolution so provide.

3. No mandate shall be accepted by the United States under article 22, part 1, or any other provision of the treaty of peace with Germany, except by action of the Congress of the United States.

4. The United States reserves to itself exclusively the right to decide what questions are within its domestic jurisdiction and declares that all domestic and political questions relating wholly or in part to its internal affairs, including immigration, labor, coastwise traffic, the tariff, commerce, the suppression of traffic in women and children and in opium and other dangerous drugs, and all other domestic questions, are solely within the jurisdiction of the United States and are not under this treaty to be submitted in any way either to arbitration or to the consideration of the council or of the assembly of the League of Nations, or any agency thereof, or to the decision or recommendation of any other power.

5. The United States will not submit to arbitration or to inquiry by the assembly or by the council of the League of Nations, provided for in said treaty of peace, any questions which in the judgment of the United States depend upon or relate to its long-established policy, commonly known as the Monroe doctrine; said doctrine is to be interpreted by the United States alone and is hereby declared to be wholly outside the jurisdiction of said League of Nations and entirely unaffected by any provision contained in the said treaty of peace with Germany.

6. The United States withholds its assent to articles 156, 157, and

158, and reserves full liberty of action with respect to any controversy which may arise under said articles.

7. No person is or shall be authorized to represent the United States, nor shall any citizen of the United States be eligible, as a member of any body or agency established or authorized by said treaty of peace with Germany, except pursuant to an act of the Congress of the United States providing for his appointment and defining his powers and duties.

8. The United States understands that the reparation commission will regulate or interfere with exports from the United States to Germany, or from Germany to the United States, only when the United States by act or joint resolution of Congress approves such regulation or interference.

9. The United States shall not be obligated to contribute to any expenses of the League of Nations, or of the secretariat, or of any commission, or committee, or conference, or other agency, organized under the League of Nations or under the treaty or for the purpose of carrying out the treaty provisions, unless and until an appropriation of funds available for such expenses shall have been made by the Congress of the United States: *Provided*, That the foregoing limitation shall not apply to the United States proportionate share of the expense of the office force and salary of the secretary general.

10. No plan for the limitation of armaments proposed by the council of the League of Nations under the provisions of article 8 shall be held as binding the United States until the same shall have been accepted by Congress, and the United States reserves the right to increase its armament without the consent of the council whenever the United States is threatened with invasion or engaged in war.

11. The United States reserves the right to permit, in its discretion, the nationals of a covenant-breaking State, as defined in article 16 of the covenant of the League of Nations, residing within the United States or in countries other than such covenant-breaking State, to continue their commercial, financial, and personal relations with the nationals of the United States.

12. Nothing in articles 296, 297, or in any of the annexes thereto or in any other article, section, or annex of the treaty of peace with Germany shall, as against citizens of the United States, be taken to mean any confirmation, ratification, or approval of any act otherwise illegal or in contravention of the rights of citizens of the United States.

13. The United States withholds its assent to Part XIII (articles 387 to 427, inclusive) unless Congress by act or joint resolution shall hereafter make provision for representation in the organization established by said Part XIII, and in such event the participation of the

United States will be governed and conditioned by the provisions of such act or joint resolution.

14. Until Part I, being the covenant of the League of Nations, shall be so amended as to provide that the United States shall be entitled to cast a number of votes equal to that which any member of the league and its self-governing dominions, colonies, or parts of empire, in the aggregate shall be entitled to cast, the United States assumes no obligation to be bound, except in cases where Congress has previously given its consent, by any election, decision, report, or finding of the council or assembly in which any member of the league and its self-governing dominions, colonies, or parts of empire, in the aggregate have cast more than one vote.

The United States assumes no obligation to be bound by any decision, report, or finding of the council or assembly arising out of any dispute between the United States and any member of the league if such member, or any self-governing dominion, colony, empire, or part of empire united with it politically has voted.

15. In consenting to the ratification of the treaty with Germany the United States adheres to the principle of self-determination and to the resolution of sympathy with the aspirations of the Irish people for a government of their own choice adopted by the Senate June 6, 1919, and declares that when such government is attained by Ireland, a consummation it is hoped is at hand, it should promptly be admitted as a member of the League of Nations.

Mr. LODGE. Mr. President, I send to the desk a resolution, which I ask may be read.

The PRESIDENT pro tempore. The resolution will be read.

The resolution was read, as follows:

Resolved, That the Secretary of the Senate be instructed to return to the President the treaty of peace with Germany, signed at Versailles on the 28th day of June, 1919, and respectfully inform the President that the Senate has failed to ratify said treaty, being unable to obtain the constitutional majority therefor.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

Mr. LODGE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

.....

The result was announced — yeas 47, nays 37, as follows:

YEAS — 47

Ball	France	La Follette	Shields
Borah	Frelinghuysen	Lenroot	Smoot
Brandeggee	Gore	Lodge	Spencer
Calder	Gronna	McCormick	Sterling
Capper	Hale	McLean	Sutherland
Colt	Johnson, Calif.	McNary	Townsend
Cummins	Jones, Wash.	Moses	Wadsworth
Curtis	Kellogg	New	Walsh, Mass.
Dillingham	Kenyon	Norris	Warren
Edge	Keyes	Page	Watson
Elkins	Kirby	Phipps	Williams
Fernald	Knox	Reed	

NAYS — 37

Ashurst	Harrison	Overman	Smith, Md.
Beckham	Henderson	Owen	Smith, S. C.
Chamberlain	Hitchcock	Phelan	Stanley
Comer	Johnson, S. Dak.	Pittman	Swanson
Culberson	Jones, N. Mex.	Pomerene	Trammell
Dial	Kendrick	Ransdell	Walsh, Mont.
Fletcher	King	Robinson	Wolcott
Gay	McKellar	Sheppard	
Gerry	Myers	Simmons	
Harris	Nugent	Smith, Ga.	

NOT VOTING — 12

Fall	McCumber	Penrose	Smith, Ariz.
Glass	Nelson	Poindexter	Thomas
Harding	Newberry	Sherman	Underwood

So Mr. Lodge's resolution was agreed to.

269. THE BUDGET SYSTEM

Approved June 10, 1921.

Statutes at Large of the United States. *Vol. 42, Part 1, pp. 20-27.*

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I.

DEFINITIONS.

SECTION 1. This Act may be cited as the "Budget and Accounting Act, 1921."

.....

TITLE II.

THE BUDGET.

SEC. 201. The President shall transmit to Congress on the first day of each regular session, the Budget, which shall set forth in summary and in detail:

(a) Estimates of the expenditures and appropriations necessary in his judgment for the support of the Government for the ensuing fiscal year; except that the estimates for such year for the Legislative Branch of the Government and the Supreme Court of the United States shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision;

(b) His estimates of the receipts of the Government during the ensuing fiscal year, under (1) laws existing at the time the Budget is transmitted and also (2) under the revenue proposals, if any, contained in the Budget;

(c) The expenditures and receipts of the Government during the last completed fiscal year;

(d) Estimates of the expenditures and receipts of the Government during the fiscal year in progress;

(e) The amount of annual, permanent, or other appropriations, including balances of appropriations for prior fiscal years, available for expenditure during the fiscal year in progress, as of November 1 of such year;

(f) Balanced statements of (1) the condition of the Treasury at the end of the last completed fiscal year, (2) the estimated condition of the Treasury at the end of the fiscal year in progress, and (3) the estimated condition of the Treasury at the end of the ensuing fiscal year if the financial proposals contained in the Budget are adopted;

(g) All essential facts regarding the bonded and other indebtedness of the Government; and

(h) Such other financial statements and data as in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition of the Government.

SEC. 202. (a) If the estimated receipts for the ensuing fiscal year contained in the Budget, . . are less than the estimated expenditures for the ensuing fiscal year contained in the Budget, the President in the Budget shall make recommendations to Congress for new taxes, loans, or other appropriate action to meet the estimated deficiency.

(b) If the aggregate of such estimated receipts and such estimated amounts in the Treasury is greater than such estimated expenditures for the ensuing fiscal year, he shall make such recommendations as in his opinion the public interests require.

.....

SEC. 206. No estimate or request for an appropriation and no request for an increase in an item of any such estimate or request, and no recommendation as to how the revenue needs of the Government should be met, shall be submitted to Congress or any committee thereof by any officer or employee of any department or establishment, unless at the request of either House of Congress.

SEC. 207. There is hereby created in the Treasury Department a Bureau to be known as the Bureau of the Budget. . . The Bureau, under such rules and regulations as the President may prescribe, shall prepare for him the Budget, the alternative Budget, and any supplemental or deficiency estimates, and to this end shall have authority to assemble, correlate, revise, reduce, or increase the estimates of the several departments or establishments.

.....

SEC. 209. The Bureau, when directed by the President, shall make a detailed study of the departments and establishments for the purpose of enabling the President to determine what changes (with a view of securing greater economy and efficiency in the conduct of the public service) should be made in (1) the existing organization, activities, and methods of business of such departments or establishments, (2) the appropriations therefor, (3) the assignment of particular activities to particular services, or (4) the regrouping of services. The results of such study shall be embodied in a report or reports to the President, who may transmit to Congress such report or reports or any part thereof with his recommendations on the matters covered thereby.

.....

SEC. 214. (a) The head of each department and establishment shall designate an official thereof as budget officer therefor, who, in each year under his direction and on or before a date fixed by him, shall prepare the departmental estimates.

(b) Such budget officer shall also prepare, under the direction of the head of the department or establishment, such supplemental and deficiency estimates as may be required for its work.

.....

Approved, June 10, 1921.

270. THE FOUR POWER TREATY

This treaty resulted from the Washington Conference, held in 1921. The United States, Great Britain, France, Italy, Japan, Belgium, Holland and Portugal participated. The following treaties between the United States, Great Britain, France and Japan were the important points of the Conference. They went into effect August 21, 1923.

Statutes at Large of the United States, Vol. 43, Part 2, pp. 1646-1670.

WASHINGTON CONFERENCE

The United States of America, the British Empire, France and Japan,

With a view to the preservation of the general peace and the maintenance of their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean,

Have determined to conclude a Treaty to this effect and have appointed as their Plenipotentiaries:

.....

Who having communicated their Full Powers, found in good and due form, have agreed as follows:

I.

The High Contracting Parties agree as between themselves to respect their rights in relation to their insular possessions and insular dominions in the region of the Pacific Ocean.

If there should develop between any of the High Contracting Parties a controversy arising out of any Pacific question and involving their said rights which is not satisfactorily settled by diplomacy and is likely to affect the harmonious accord now happily subsisting between them, they shall invite the other High Contracting Parties to a joint conference to which the whole subject will be referred for consideration and adjustment.

II.

If the said rights are threatened by the aggressive action of any other Power, the High Contracting Parties shall communicate with one another fully and frankly in order to arrive at an understanding as to the most efficient measures to be taken, jointly or separately, to meet the exigencies of the particular situation.

III.

This Treaty shall remain in force for ten years from the time it shall take effect, and after the expiration of said period it shall continue to be in force subject to the right of any of the High Contracting Parties to terminate it upon twelve months' notice.

.....

In faith whereof the above named Plenipotentiaries have signed the present Treaty.

Done at the City of Washington, the thirteenth day of December, One Thousand Nine Hundred and Twenty-One.

.....

NAVAL LIMITATION TREATY

The United States of America, the British Empire, France, Italy and Japan;

Desiring to contribute to the maintenance of the general peace, and to reduce the burdens of competition in armament;

Have resolved, with a view to accomplishing these purposes, to conclude a treaty to limit their respective naval armament, and to that end have appointed as their Plenipotentiaries;

.....

Who, having communicated to each other their respective full powers, found to be in good and due form, have agreed as follows:

CHAPTER I

.....

ARTICLE I.

The Contracting Powers agree to limit their respective naval armament as provided in the present Treaty.

ARTICLE II.

The Contracting Powers may retain respectively the capital ships which are specified in Chapter II, Part 1. On the coming into force of the present Treaty, but subject to the following provisions of this Article, all other capital ships, built or building, of the United States, the British Empire and Japan shall be disposed of as prescribed in Chapter II, Part 2.

In addition to the capital ships specified in Chapter II, Part 1, the United States may complete and retain two ships of the *West Virginia* class now under construction. On the completion of these two ships the *North Dakota* and *Delaware* shall be disposed of as prescribed in Chapter II, Part 2.

The British Empire may, in accordance with the replacement table in Chapter II, Part 3, construct two new capital ships not exceeding 35,000 tons (35,560 metric tons) standard displacement each. On the completion of the said two ships the *Thunderer*, *King George V*, *Ajax* and *Centurion* shall be disposed of as prescribed in Chapter II, Part 2.

ARTICLE III.

Subject to the provisions of Article II, the Contracting Powers shall abandon their respective capital ship building programs, and no new capital ships shall be constructed or acquired by any of the Contracting Powers except replacement tonnage which may be constructed or acquired as specified in Chapter II, Part 3.

Ships which are replaced in accordance with Chapter II, Part 3, shall be disposed of as prescribed in Part 2 of that Chapter.

ARTICLE IV.

The total capital ship replacement tonnage of the Contracting Powers shall not exceed in standard displacement, for the United States 525,000 tons (533,400 metric tons); for the British Empire 525,000 tons (533,400 metric tons); for France 175,000 tons (177,800 metric tons); for Italy 175,000 tons (177,800 metric tons); for Japan 315,000 tons (320,040 metric tons).

ARTICLE V.

No capital ship exceeding 35,000 tons (35,560 metric tons) standard displacement shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers.

ARTICLE VI.

No capital ship of any of the Contracting Powers shall carry a gun with a calibre in excess of 16 inches (405 millimetres).

ARTICLE VII.

The total tonnage for aircraft carriers of each of the Contracting Powers shall not exceed in standard displacement, for the United States 135,000 tons (137,160 metric tons); for the British Empire 135,000 tons (137,160 metric tons); for France 60,000 tons (60,960 metric tons); for Italy 60,000 tons (60,960 metric tons); for Japan 81,000 tons (82,296 metric tons).

ARTICLE VIII.

The replacement of aircraft carriers shall be effected only as prescribed in Chapter II, Part 3, provided, however, that all aircraft carrier tonnage in existence or building on November 12, 1921, shall be considered experimental, and may be replaced, within the total tonnage limit prescribed in Article VII, without regard to its age.

ARTICLE IX.

No aircraft carrier exceeding 27,000 tons (27,432 metric tons) standard displacement shall be acquired by, or constructed by, for or within the jurisdiction of, any of the Contracting Powers.

However, any of the Contracting Powers may, provided that its total tonnage allowance of aircraft carriers is not thereby exceeded, build not more than two aircraft carriers, each of a tonnage of not more than 33,000 tons (33,528 metric tons) standard displacement, and in order to effect economy any of the Contracting Powers may use for this purpose any two of their ships, whether constructed or in course of construction, which would otherwise be scrapped under the provisions of Article II. The armament of any aircraft carriers exceeding 27,000 tons (27,432 metric tons) standard displacement shall be in accordance with the requirements of Article X, except that the total number of guns to be carried in case any of such guns be of a calibre exceeding 6 inches (152 millimetres), except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed eight.

ARTICLE X.

No aircraft carrier of any of the Contracting Powers shall carry a gun with a calibre in excess of 8 inches (203 millimetres). Without prejudice to the provisions of Article IX, if the armament carried includes guns exceeding 6 inches (152 millimetres) in calibre the total number of guns carried, except anti-aircraft guns and guns not exceeding 5 inches (127 millimetres), shall not exceed ten. If alternatively the armament contains no guns exceeding 6 inches (152 millimetres) in calibre, the number of guns is not limited. In either case the number of anti-aircraft guns and of guns not exceeding 5 inches (127 millimetres) is not limited.

ARTICLE XI.

No vessel of war exceeding 10,000 tons (10,160 metric tons) standard displacement, other than a capital ship or aircraft carrier, shall be acquired by, or constructed by, for, or within the jurisdiction of, any of the Contracting Powers. Vessels not specifically built as fighting ships nor taken in time of peace under government control for fighting purposes, which are employed on fleet duties or as troop transports or in some other way for the purpose of assisting in the prosecution of hostilities otherwise than as fighting ships, shall not be within the limitations of this Article.

ARTICLE XII.

No vessel of war of any of the Contracting Powers, hereafter laid down, other than a capital ship, shall carry a gun with a calibre in excess of 8 inches (203 millimetres).

ARTICLE XIII.

Except as provided in Article IX, no ship designated in the present Treaty to be scrapped may be reconverted into a vessel of war.

ARTICLE XIV.

No preparations shall be made in merchant ships in time of peace for the installation of warlike armaments for the purpose of converting such ships into vessels of war, other than the necessary stiffening of decks for the mounting of guns not exceeding 6 inch (152 millimetres) calibre.

.....

ARTICLE XIX.

The United States, the British Empire and Japan agree that the status quo at the time of the signing of the present Treaty, with regard to fortifications and naval bases, shall be maintained in their respective territories and possessions specified hereunder:

(1) The insular possessions which the United States now holds or may hereafter acquire in the Pacific Ocean, except (a) those adjacent to the coast of the United States, Alaska and Panama Canal Zone, not including the Aleutian Islands, and (b) the Hawaiian Islands;

(2) Hongkong and the insular possessions which the British Empire now holds or may hereafter acquire in the Pacific Ocean, east of the meridian of 110° east longitude, except (a) those adjacent to the coast of Canada, (b) the Commonwealth of Australia and its Territories, and (c) New Zealand;

(3) The following insular territories and possessions of Japan in the Pacific Ocean, to wit: the Kurile Islands, the Bonin Islands, Amami-Oshima, the Loochoo Islands, Formosa and the Pescadores, and any insular territories or possessions in the Pacific Ocean which Japan may hereafter acquire.

The maintenance of the status quo under the foregoing provisions implies that no new fortifications or naval bases shall be established in the territories and possessions specified; that no measures shall be taken to increase the existing naval facilities for the repair and maintenance of naval forces, and that no increase shall be made in the coast defences of the territories and possessions above specified. This restriction, however, does not preclude such repair and replacement of worn-out weapons and equipment as is customary in naval and military establishments in time of peace.

.....

CHAPTER II

PART 1.

[Lists of capital ships each power may retain.]

PART 2.

RULES FOR SCRAPPING VESSELS OF WAR.

The following rules shall be observed for the scrapping of vessels of war which are to be disposed of in accordance with Articles II and III.

- I. A vessel to be scrapped must be placed in such condition that it cannot be put to combatant use.
- II. This result must be finally effected in any one of the following ways:

- (a) Permanent sinking of the vessel;
- (b) Breaking the vessel up
This shall always involve the destruction or removal of all machinery, boilers and armour, and all deck, side and bottom plating;
- (c) Converting the vessel to target use exclusively. In such case all the provisions of paragraph III of this Part, except sub-paragraph (6), in so far as may be necessary to enable the ship to be used as a mobile target, and except sub-paragraph (7), must be previously complied with. Not more than one capital ship may be retained for this purpose at one time by any of the Contracting Powers.

.....

PART 3.

.....

SECTION I.

RULES FOR REPLACEMENT.

(a) Capital ships and aircraft carriers twenty years after the date of their completion may, except as otherwise provided in Article VIII and in the tables in Section II of this Part, be replaced by new construction, but within the limits prescribed in Article IV and Article VII. The keels of such new construction may, except as otherwise provided in Article VIII and in the tables in Section II of this Part, be laid down not earlier than seventeen years from the date of completion of the tonnage to be replaced, provided, however, that no capital ship tonnage, with the exception of the ships referred to in the third paragraph of Article II, and replacement tonnage specifically mentioned in Section II of this Part, shall be laid down until ten years from November 12, 1921.

(b) Each of the Contracting Powers shall communicate promptly to each of the other Contracting Powers the following information:

- (1) The names of the capital ships and aircraft carriers to be replaced by new construction;

- (2) The date of governmental authorization of replacement tonnage;
- (3) The date of laying the keels of replacement tonnage;
- (4) The standard displacement in tons and metric tons of each new ship to be laid down, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement;
- (5) The date of completion of each new ship and its standard displacement in tons and metric tons, and the principal dimensions, namely, length at waterline, extreme beam at or below waterline, mean draft at standard displacement, at time of completion.

.....

SECTION II.

[Tables for replacement and scrapping of capital ships by each power]

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271. McNARY-HAUGEN BILL

The following bill was intended to afford a panacea for the depression in agricultural prices following the close of the World War. In effect, it was intended to raise domestic prices by dumping the surplus abroad at bargain prices and collecting an equalization fee to cover costs. The bill was vetoed by President Coolidge, February 25, 1927. A similar act was passed and vetoed in 1928.

Congressional Record, 69 Congress, 2 session, pp. 3869-3872.

BE it enacted, etc. —

DECLARATION OF POLICY

SECTION 1. It is hereby declared to be the policy of Congress to promote the orderly marketing of basic agricultural commodities in interstate and foreign commerce and to that end to provide for the control and disposition of surpluses of such commodities, to enable producers of such commodities to stabilize their markets against undue and excessive fluctuations, to preserve advantageous domestic markets for such commodities, to minimize speculation and waste in marketing such commodities, and to encourage the organization of producers of such commodities into cooperative marketing associations.

FEDERAL FARM BOARD

SEC. 2. (a) A Federal Farm Board is hereby created which shall consist of the Secretary of Agriculture, who shall be a member *ex officio*, and 12 members, one from each of the 12 Federal land-bank districts, appointed by the President of the United States, by and with the advice and consent of the Senate, from lists of eligibles submitted by the nominating committee for the district, as hereinafter in this section provided.

(b) There is hereby established a nominating committee in each of the 12 Federal land-bank districts, to consist of seven members. Four of the members of the nominating committee in each district shall be elected by the bona fide farm organizations and cooperative associations in such district at a convention of such organizations and associations, to be held at the office of the Federal land bank in such district, or at such other place, in the city where such Federal land bank is located, to which the convention may adjourn. Two of the members of the nominating committee in each district shall be elected by a majority vote of the heads of the agricultural departments of the several States of each Federal land-bank district, at a meeting to be held in the same city and at the same time of the meeting of the convention of the bona fide farm organizations and cooperative associations in each district. One of the members of the nominating committee in each district shall be appointed by the Secretary of Agriculture.

.....

(d) The term of office of each member of a nominating committee first elected or appointed shall expire two years from the date of his election or appointment, and the term of office of a successor shall expire two years from the date of the expiration of the term for which his predecessor was elected or appointed. . .

.....

(g) Whenever a vacancy occurs in the board, or whenever in the opinion of the chairman of the board a vacancy will soon occur, in the office of a member from any Federal land-bank district, the chairman of the board shall notify the nominating committee in such district. The nominating committee shall, as soon as practicable thereafter, meet and submit to the President a list of three individuals from such district, eligible for appointment to the board.

QUALIFICATIONS AND TERMS OF BOARD MEMBERS.

SEC. 3. (a) The terms of office of the appointed members of the board first taking office after the approval of this act shall expire, as designated by the President at the time of nomination, four at the end of the second year, four at the end of the fourth year, and four at the end of the sixth year, after the date of the approval of this act. A successor to an appointed member of the board shall be appointed in the same manner as the original appointed members, and shall have a term of office expiring six years from the date of the expiration of the term for which his predecessor was appointed.

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SEC. 6. (a) For the purposes of this act, cotton, wheat, corn, rice, tobacco, and swine shall be known and are referred to as "basic agricultural commodities," except that the board may, in its discretion, treat as a separate basic agricultural commodity one or more of such classes or types of tobacco as are designated in the classification of the Department of Agriculture.

(b) Whenever the board finds that the conditions of production and marketing of any other agricultural commodity are such that the provisions of this act applicable to a basic agricultural commodity should be made applicable to such other agricultural commodity, the board shall submit its report thereon to Congress.

(c) Whenever the board finds, first, that there is or may be during the ensuing year either (1) a surplus above the domestic requirements for wheat, corn, rice, tobacco, or swine, or (2) a surplus above the requirements for the orderly marketing of cotton, or of wheat, corn, rice, tobacco, or swine; and, second, that both the advisory council hereinafter created for the commodity and a substantial number of cooperative associations or other organizations representing the producers of the commodity favor the full cooperation of the board in the stabilization of the commodity, then the board shall publicly declare its findings and commence, upon a date to be fixed by the board and published in such declaration, the operations in such commodity authorized by this act:..

(d) During the continuance of such operations in any basic agricultural commodity, the board is authorized to enter into agreements, for the purpose of carrying out the policy declared in section 1, with any cooperative association engaged in handling the basic agricultural commodity, or with a corporation created by one or more of such

cooperative associations, or with processors of the basic agricultural commodity.

(e) Such agreements may provide for (1) removing or disposing of any surplus of the basic agricultural commodity, (2) withholding such surplus, (3) insuring such commodity against undue and excessive fluctuations in market conditions, and (4) financing the purchase, storage, or sale or other disposition of the commodity. The moneys in the stabilization fund of the basic agricultural commodity shall be available for carrying out such agreements. In the case of any agreement in respect of the removal or disposal of the surplus of a basic agricultural commodity, the agreement shall provide both for the payment from the stabilization fund for the commodity of the amount of losses, costs, and charges, arising out of the purchase, storage, or sale or other disposition of the commodity or out of contracts therefor, and for the payment into the stabilization fund for the commodity of profits (after deducting all costs and charges provided for in the agreement) arising out of such purchase, storage, or sale or other disposition, or contracts therefor. In the case of agreements insuring such commodity against undue and excessive fluctuations in market conditions, the board may insure any cooperative marketing association against decline in the market price for the commodity at the time of sale by the association, from the market price for such commodity at the time of delivery to the association.

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SEC. 7. (a) The board is hereby authorized and directed to create for each basic agricultural commodity an advisory council of seven members fairly representative of the producers of such commodity. Members of each commodity advisory council shall be selected annually by the board from lists submitted by the heads of the agricultural departments of the several States within the Federal land bank district and from lists submitted by cooperative marketing associations and farm organizations determined by the board to be representative of the producers of such commodity. . .

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SEC. 8. In order that each marketed unit of a basic agricultural commodity may contribute ratably its equitable share to the stabilization fund hereinafter established for such commodity; in order to prevent any unjust discrimination against, any direct burden or undue restraint upon, and any suppression of commerce with foreign nations in basic agricultural commodities in favor of interstate or intrastate commerce in such commodities; and in order to stabilize and regulate the current

of foreign and interstate commerce in such commodities — there shall be apportioned and paid as a regulation of such commerce an equalization fee as hereinafter provided.

AMOUNT EQUALIZATION FEE

SEC. 9. Prior to the commencement of operations in respect of any basic agricultural commodity, and thereafter from time to time, the board shall estimate the probable advances, losses, costs, and charges to be paid in respect of the operations in such commodity. Having due regard to such estimates, the board shall from time to time determine and publish the amount for each unit of weight, measure, or value designated by it, to be collected upon such unit of such basic agricultural commodity during the operations in such commodity. Such amount is hereinafter referred to as the "equalization fee." At the time of determining and publishing an equalization fee the board shall specify the period during which it shall remain in effect, and the place and manner of its payment and collection.

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(b) The board may by regulation require any person engaged in the transportation, processing, or acquisition by sale of a basic agricultural commodity —

(1) To file returns under oath and to report, in respect of his transportation, processing, or acquisition of such commodity, the amount of equalization fees payable thereon and such other facts as may be necessary for their payment or collection.

(2) To collect the equalization fee as directed by the board, and to account therefor.

(3) In the case of cotton, to issue to the producer a serial receipt for the commodity which shall be evidence of the participating interest of the producer in the equalization fund for the commodity. The board may in such case prepare and issue such receipts and prescribe the terms and conditions thereof. The Secretary of the Treasury, upon the request of the board, shall have such receipts prepared at the Bureau of Engraving and Printing.

(c) Every person who, in violation of the regulations prescribed by the board, fails to collect or account for any equalization fee shall be liable for its amount and to a penalty equal to one-half its amount. Such amount and penalty may be recovered together in a civil suit brought by the board in the name of the United States.

STABILIZATION FUNDS

SEC. 11. (a) In accordance with regulations prescribed by the board, there shall be established a stabilization fund for each basic agricultural commodity. Such funds shall be administered by and exclusively under the control of the board, and the board shall have the exclusive power of expending the moneys in any such fund. There shall be deposited to the credit of the stabilization fund for a basic agricultural commodity, advances from the revolving fund hereinafter established, premiums paid for insurance under section 12, and the equalization fees and profits in connection with operations by the board in the basic agricultural commodity or its food products.

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SEC. 12. (a) The board is authorized, upon such terms and conditions and in accordance with such regulations as it may prescribe, to make loans out of the revolving fund to any cooperative association engaged in the purchase, storage, or sale or other disposition of any agricultural commodity (whether or not a basic agricultural commodity) for the purpose of assisting such cooperative association in controlling the surplus of such commodity in excess of the requirements for orderly marketing.

(b) For the purpose of developing continuity of cooperative services, including unified terminal marketing facilities and equipment, the board is authorized, upon such terms and conditions and in accordance with such regulations as it may prescribe, to make loans out of the revolving fund to any cooperative association engaged in the purchase, storage, sale, or other disposition, or processing of any agricultural commodity, (1) for the purpose of assisting any such association in the acquisition, by purchase, construction, or otherwise, of facilities to be used in the storage, processing, or sale of such agricultural commodity, or (2) for the purpose of furnishing funds to such associations for necessary expenditures in federating, consolidating, or merging cooperative associations, or (3) for the purpose of furnishing to any such association funds to be used by it as capital for any agricultural credit corporation eligible for receiving rediscounts from an intermediate-credit bank. In making any such loan the board may provide for the payment of such charge, to be determined by the board from time to time, upon each unit of the commodity handled by the association, as will within a period of not more than 20 years repay the amount of such loan, together with interest thereon. The aggregate

amounts loaned under this subdivision and remaining unpaid shall not exceed at any one time the sum of \$25,000,000.

(c) Any loan under subdivision (a) or (b) shall bear interest at the rate of 4 per cent per annum.

(d) The board may at any time enter into a contract with any cooperative marketing association engaged in marketing any basic agricultural commodity, insuring such association for periods of 12 months against decline in the market price for such commodity at the time of sale by the association from the market price for such commodity at the time of delivery to the association. For such insurance the association shall pay such premium, to be determined by the board, upon each unit of the basic agricultural commodity reported by the association for coverage under the insurance contract, as will cover the risks of the insurance.

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SEC. 16. (a) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$250,000,000, which shall be administered by the board and used as a revolving fund, in accordance with the provisions of this act. The Secretary of the Treasury shall deposit in the revolving fund such amounts, within the appropriations therefor, as the board from time to time deems necessary.

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SEC. 18. This act may be cited as the "Surplus control act."

272. VETO OF THE McNARY-HAUGEN BILL

Should be compared with the preceding selection. The date is February 25, 1927.

Surplus Control Act, Document No. 214. 69 Congress, 2 session.

MESSAGE

From The

PRESIDENT OF THE UNITED STATES

Returning

WITHOUT APPROVAL THE BILL (S. 4808) ENTITLED
"AN ACT TO ESTABLISH A FEDERAL FARM BOARD
TO AID IN THE ORDERLY MARKETING AND IN THE
CONTROL AND DISPOSITION OF THE SURPLUS OF
AGRICULTURAL COMMODITIES"

To the Senate:

THE conditions which Senate bill 4808 is designed to remedy have been, and still are, unsatisfactory in many cases. No one can deny that the prices of many farm products have been out of line with the general price level for several years. No one could fail to want every proper step taken to assure to agriculture a just and secure place in our economic scheme. Reasonable and constructive legislation to that end would be thoroughly justified and would have the hearty support of all who have the interests of the Nation at heart. The difficulty with this particular measure is that it is not framed to aid farmers as a whole, and it is, furthermore, calculated to injure rather than promote the general public welfare.

It is axiomatic that progress is made through building on the good foundations that already exist. For many years — indeed, from before the day of modern agricultural science — balanced and diversified farming has been regarded by thoughtful farmers and scientists as the safeguard of our agriculture. The bill under consideration throws this aside as of no consequence. It says in effect that all the agricultural scientists and all the thinking farmers of the last 50 years are wrong, that what we ought to do is not to encourage diversified agriculture but instead put a premium on one-crop farming.

The measure discriminates definitely against products which make up what has been universally considered a program of safe farming.

The bill upholds as ideals of American farming the men who grow cotton, corn, rice, swine, tobacco, or wheat, and nothing else. These are to be given special favors at the expense of the farmer who has toiled for years to build up a constructive farming enterprise to include a variety of crops and livestock that shall, so far as possible, be safe, and keep the soil, the farmer's chief asset, fertile and productive.

The bill singles out a few products, chiefly sectional, and proposes to raise the prices of those regardless of the fact that thousands of other farmers would be directly penalized. If this is a true farm-relief measure, why does it leave out the producers of beef cattle, sheep, dairy products, poultry products, potatoes, hay, fruit, vegetables, oats, barley, rye, flax and the other important agricultural lines? So far as the farmers as a whole are concerned, this measure is not for them. It is for certain groups of farmers in certain sections of the country. Can it be thought that such legislation could have the sanction of the rank and file of the Nation's farmers?

This measure provides specifically for the payment by the Federal board of all losses, costs, and charges of packers, millers, cotton spinners, or other processors who are operating under contract with the board. It contemplates that the packers may be commissioned by the Government to buy hogs enough to create a near scarcity in this country, slaughter the hogs, sell the pork products abroad at a loss, and have their losses, costs, and charges made good out of the pockets of farm taxpayers. The millers would be similarly commissioned to operate in wheat or corn and have their losses, costs, and charges paid by farm taxpayers.

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Clearly this legislation involves government fixing of prices. It gives the proposed Federal board almost unlimited authority to fix prices on the designated commodities. This is price fixing, furthermore, on some of the Nation's basic foods and materials. Nothing is more certain than that such price fixing would upset the normal exchange relationships existing in the open market and that it would finally have to be extended to cover a multitude of other goods and services. Government price fixing, once started, has alike no justice and no end. It is an economic folly from which this country has every right to be spared.

This legislation proposes, in effect, that Congress shall delegate to a Federal Farm Board, nominated by farmers, the power to fix and collect a tax, called an equalization fee, on certain products produced by those farmers. That certainly contemplates a remarkable delegation of the taxing power. The purpose of that tax, it may be repeated, is to

pay the losses incurred in the disposition of the surplus products in order to raise the price on that portion of the products consumed by our own people.

This so-called equalization fee is not a tax for purposes of revenue in the accepted sense. It is a tax for the special benefit of particular groups. As a direct tax on certain of the vital necessities of life it represents the most vicious form of taxation. Its real effect is an employment of the coercive powers of Government to the end that certain special groups of farmers and processors may profit temporarily at the expense of other farmers and of the community at large.

The chief objection to the bill is that it would not benefit the farmer. Whatever may be the temporary influence of arbitrary interference, no one can deny that in the long run prices will be governed by the law of supply and demand. To expect to increase prices and then to maintain them on a higher level by means of a plan which must of necessity increase production while decreasing consumption, is to fly in the face of an economic law as well established as any law of nature. Experience shows that high prices in any given year mean greater acreage the next year. This does not necessarily mean a larger crop the following year, because adverse weather conditions may produce a smaller crop on a larger acreage, but in the long run a constantly increasing acreage must of necessity mean a larger average crop.

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A board of 12 men are granted almost unlimited control of the agricultural industry and can not only fix the price which the producers of five commodities shall receive for their goods, but can also fix the price which the consumers of the country shall pay for these commodities. The board is expected to obtain higher prices for the American farmer by removing the surplus from the home market and dumping it abroad at a below-cost price. To do this, the board is given the authority by implication to fix the domestic price level, either by means of contracts which it may make with processors or cooperatives, or by providing for the purchase of the commodities in such quantities as will bring the prices up to the point which the board may fix.

Except as it may be restrained by fear of foreign importations, the farm board, composed of representatives of producers, is given the power to fix the prices of these necessities of life at any point it sees fit. The law fixes no standards, imposes no restrictions, and requires no regulation of any kind. There could be no appeal from the arbitrary decision of these men, who would be under constant pressure from their constituents to push prices as high as possible. To expect modera-

tion under these circumstances is to disregard experience and credit human nature with qualities it does not possess. It is not so long since the Government was spending vast sums and through the Department of Justice exerting every effort to break up combinations that were raising the cost of living to a point conceived to be excessive. This bill, if it accomplishes its purpose, will raise the price of the specified agricultural commodities to the highest possible point and in doing so the board will operate without any restraints imposed by the antitrust laws. The granting of any such arbitrary power to a Government board is to run counter to our traditions, the philosophy of our Government, the spirit of our institutions, and all principles of equity.

The administrative difficulties involved are sufficient to wreck the plan. No matter how simple an economic conception may be, its application on a large scale in the modern world is attended by infinite complexities and difficulties. The principle underlying this bill, whether fallacious or not, is simple and easy to state; but no one has outlined in definite and detailed terms how the principle is to be carried out in practice. How can the board be expected to carry out after the enactment of the law what can not even be described prior to its passage? In the meanwhile, existing channels and methods of distribution and marketing must be seriously dislocated.

This is even more apparent when we take into consideration the problem of administering the collection of the equalization fee. The bureau states that the fee will have to be collected either from the processors or the transportation companies, and dismisses as impracticable collections at the point of sale. In the case of transportation companies it points out the enormous difficulties of collecting the fee in view of the possibility of shipping commodities by unregistered vehicles. In so far as processors are concerned, it estimates the number at 6,632, without considering the number of factories engaged in the business of canning corn or manufacturing food products other than millers. Some conception of the magnitude of the task may be had when we consider that if the wheat, the corn, and the cotton crops had been under operation in the year 1925, collection would have been required from an aggregate of 16,034,466,679 units. The bureau states that it will be impossible to collect the equalization fee in full.

The bill will not succeed in providing a practical method of controlling the agricultural surplus, which lies at the heart of the whole problem. In the matter of controlling output, the farmer is at a disadvantage as compared with the manufacturer. The latter is better able to gauge his market, and in the face of falling prices can reduce production. The farmer, on the other hand, must operate over a longer

period of time in producing his crops and is subject to weather conditions and disturbances in world markets which can never be known in advance. In trying to find a solution for this fundamental problem of the surplus, the present bill offers no constructive suggestion. It seeks merely to increase the prices paid by the consumer, with the inevitable result of stimulating production on the part of the farmer and decreasing consumption on the part of the public. It ignores the fact that production is curbed only by decreased, not increased, prices. In the end the equalization fee and the entire machinery provided by the bill under consideration will merely aggravate conditions which are the cause of the farmer's present distress.

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The effect of this plan will be continuously to stimulate American production and to pile up increasing surpluses beyond the world demand. We are already overproducing. It has been claimed that the plan would only be used in the emergency of occasional surplus which unduly depresses the price. No such limitations are placed in the bill. But on the other hand the definition of surplus is the "surplus over domestic requirements" and as we have had such a surplus in most of the commodities covered in the bill for 50 years and will have for years to come it means continuous action. It is said that by the automatic increase of the equalization fee to meet the increasing losses on enlarged dumping of increasing surplus that there would be restraint on production. This can prove effective only after so great an increase in production as will greatly enlarge our exports on all the commodities except cotton. With such increased surpluses dumped from the United States on to foreign markets the world prices will be broken down and with them American prices upon which the premium is based will likewise be lowered to the point of complete disaster to American farmers. It is impossible to see how this bill can work.

Several of our foreign markets have agriculture of their own to protect and they have laws in force which may be applied to dumping and we may expect reprisals from them against dumping agricultural products which will even more diminish our foreign markets.

The bill is essentially a price-fixing bill, because in practical working the board must arrive in some way at the premium price which will be demanded from the American consumer, and it must fix these prices in the contracts at which it will authorize purchases by flour millers, packers, other manufacturers, and such cooperatives as may be used, for the board must formulate a basis upon which the board will pay losses on the export of their surplus.

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This measure is so long and involved that it is impossible to discuss it without going into many tiresome details. Many other reasons exist why it ought not to be approved, but it is impossible to state them all without writing a book. The most decisive one is that it is not constitutional. This feature is discussed in an opinion of the Attorney General, herewith attached and made a part hereof, so that I shall not consider the details of that phase of my objections. Of course it includes some good features. Some of its provisions, intended to aid and strengthen cooperative marketing, have been borrowed from proposals that do represent the general trend of constructive thought on the agricultural problem. In this measure, however, these provisions are all completely subordinated to the main objective, which is to have the Government dispose of exportable surpluses at a loss and make some farmer taxpayers foot the bill. This is not a measure to help cooperative marketing. Its effect, on the contrary, is to eliminate the very conditions of advantage that now induce farmers to join together to regulate and improve their own business.

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CALVIN COOLIDGE.

THE WHITE HOUSE,

February 25, 1927.

273. DEMOCRATIC PLATFORM OF 1932

The Democrats met in convention in Chicago, June 27-July 2, 1932, and nominated Franklin D. Roosevelt, of New York, for the presidency over the strenuous opposition of Alfred W. Smith. John N. Garner, of Texas, was nominated for the vice-presidency.

Franklin D. Roosevelt was born in 1882. His political prominence began in 1910 with his election to the New York Senate. He was, successively, Assistant Secretary of the Navy in Woodrow Wilson's administration, candidate for the vice-presidency on the ticket with Cox in 1920, and Governor of New York.

The Republican convention, likewise, met in Chicago (June 14-17) and without enthusiasm renominated Hoover and Curtis. Herbert Hoover had been born in 1874 and had had a long and brilliant career as a mining engineer in all corners of the world. His work as chairman of the various American relief commissions in Europe and as United States Food Administrator during the World War had earned him an enviable reputation as a humanitarian and executive. He had also served

as Secretary of Commerce in the cabinets of Harding and Coolidge and, in 1928, appeared to be the evangel of everlasting prosperity and poverty abolished. Misfortune now seemed to dog his steps and eight months after his entry into the presidency the stock market crashed and depression gradually deepened over the country. President Hoover contended, throughout, that the adverse situation had been brought on by world conditions and that the American economic position was essentially sound.

In a brilliant campaign, in which he had the advice of able councillors, Roosevelt polled 22,821,857 votes, as against 15,761,841 for Hoover, and carried all but six states — Maine, New Hampshire, Vermont, Connecticut, Pennsylvania, and Delaware. Both houses of Congress, also, fell to the Democrats by heavy majorities.

Brandon, L. D., Platforms of the Two Great Political Parties, 1932 and 1936, Washington, Government Printing Office, 1936.

IN this time of unprecedented economic and social distress the Democratic Party declares its conviction that the chief causes of this condition were the disastrous policies pursued by our Government since the World War, of economic isolation, fostering the merger of competitive businesses into monopolies and encouraging the indefensible expansion and contraction of credit for private profit at the expense of the public.

Those who were responsible for these policies have abandoned the ideals on which the war was won and thrown away the fruits of victory, thus rejecting the greatest opportunity in history to bring peace, prosperity, and happiness to our people and to the world.

They have ruined our foreign trade; destroyed the values of our commodities and products, crippled our banking system, robbed millions of our people of their life savings, and thrown millions more out of work, produced widespread poverty and brought the Government to a state of financial distress unprecedented in time of peace.

The only hope for improving present conditions, restoring employment, affording permanent relief to the people, and bringing the Nation back to the proud position of domestic happiness and of financial, industrial, agricultural, and commercial leadership in the world lies in a drastic change in economic governmental policies.

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. . . We advocate an immediate and drastic reduction of governmental expenditures by abolishing useless commissions and offices, consolidating departments and bureaus, and eliminating extravagance, to

accomplish a saving of not less than twenty-five per cent in the cost of Federal Government, and we call upon the Democratic Party in the States to make a zealous effort to achieve a proportionate result.

We favor maintenance of the national credit by a Federal budget annually balanced on the basis of accurate executive estimates within revenues, raised by a system of taxation levied on the principle of ability to pay.

We advocate a sound currency to be preserved at all hazards and an international monetary conference called on the invitation of our Government to consider the rehabilitation of silver and related questions.

We advocate a competitive tariff for revenue with a fact finding tariff commission free from Executive interference, reciprocal tariff agreements with other nations, and an international economic conference designed to restore international trade and facilitate exchange.

We advocate the extension of Federal credit to the States to provide unemployment relief wherever the diminishing resources of the States make it impossible for them to provide for the needy; expansion of the Federal program of necessary and useful construction affected with a public interest, such as adequate flood control and waterways.

We advocate the spread of employment by a substantial reduction in the hours of labor, the encouragement of the shorter week by applying that principle in Government service; We advocate advance planning of public works.

We advocate unemployment and old-age insurance under State laws.

We favor the restoration of agriculture, the Nation's basic industry; better financing of farm mortgages through recognized farm bank agencies at low rates of interest on an amortization plan, giving preference to credits for the redemption of farms and homes sold under foreclosure.

Extension and development of the farm cooperative movement and effective control of crop surpluses so that our farmers may have the full benefit of the domestic market.

The enactment of every constitutional measure that will aid the farmers to receive for their basic farm commodities prices in excess of cost.

We advocate a Navy and an Army adequate for national defense, based on a survey of all facts affecting the existing establishments, that the people in time of peace may not be burdened by an expenditure fast approaching a billion dollars annually.

We advocate strengthening and impartial enforcement of the anti-trust laws, to prevent monopoly and unfair trade practices, and revision

thereof for the better protection of labor and the small producer and distributor;

The conservation, development, and use of the Nation's water power in the public interest;

The removal of government from all fields of private enterprise except where necessary to develop public works and natural resources in the common interest.

We advocate protection of the investing public by requiring to be filed with the Government and carried in advertisements of all offerings of foreign and domestic stocks and bonds true information as to bonuses, commissions, principal invested, and interests of the sellers.

Regulation to the full extent of Federal power of—

- (a) Holding companies which sell securities in interstate commerce.
- (b) Rates of utility companies operating across State lines.
- (c) Exchanges in securities and commodities.

We advocate quicker methods of realizing on assets for the relief of depositors of suspended banks, and a more rigid supervision of national banks for the protection of depositors and the prevention of the use of their money in speculation to the detriment of local credits;

The severance of affiliated security companies from, and the divorce of the investment banking business from, commercial banks, and further restriction of Federal reserve banks in permitting the use of Federal reserve facilities for speculative purposes.

We advocate the full measure of justice and generosity for all war veterans who have suffered disability or disease caused by or resulting from actual service in time of war and for their dependents.

We advocate a firm foreign policy, including peace with all the world and the settlement of international disputes by arbitration; no interference in the internal affairs of other nations; the sanctity of treaties and the maintenance of good faith and of good will in financial obligations; adherence to the World Court with appending reservations; the Pact of Paris abolishing war as an instrument of national policy, to be made effective by provisions for consultation and conference in case of threatened violations of treaties;

International agreements for reduction of armaments and cooperation with nations of the Western Hemisphere to maintain the spirit of the Monroe Doctrine.

We oppose the cancellation of the debts owing to the United States by foreign nations.

We advocate independence for the Philippines; ultimate statehood for Puerto Rico;

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Simplification of legal procedure and reorganization of the judicial system to make the attainment of justice speedy, certain, and at less cost;

Continuous publicity of political contributions and expenditures; strengthening of the Corrupt Practices Act and severe penalties for misappropriation of campaign funds.

We advocate the repeal of the Eighteenth Amendment. To effect such repeal we demand that the Congress immediately propose a constitutional amendment to truly representative conventions in the States called to act solely on that proposal; we urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.

We demand that the Federal Government effectively exercise its power to enable the States to protect themselves against importation of intoxicating liquors in violation of their laws.

Pending repeal, we favor immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution and to provide therefrom a proper and needed revenue.

We advocate continuous responsibility of government for human welfare, especially for the protection of children.

We condemn the improper and excessive use of money in political activities.

We condemn paid lobbies of special interests to influence Members of Congress and other public servants by personal contact.

We condemn action and utterances of high public officials designed to influence stock exchange prices.

We condemn the open and covert resistance of administration officials to every effort made by congressional committees to curtail the extravagant expenditures of the Government and to revoke improvident subsidies granted to favorite interests.

We condemn the extravagance of the Farm Board, its disastrous action which made the Government a speculator of farm products, and the unsound policy of restricting agricultural products to the demands of domestic markets.

We condemn the usurpation of power by the State Department in assuming to pass upon foreign securities offered by international bankers as a result of which billions of dollars in questionable bonds have been sold to the public upon the implied approval of the Federal Government.

We condemn the Hawley-Smoot tariff law, the prohibitive rates of which have resulted in retaliatory action by more than 40 countries, created international economic hostilities, destroyed international trade,

driven our factories into foreign countries, robbed the American farmer of his foreign markets, and increased the cost of production.

In conclusion, to accomplish these purposes and to recover economic liberty, we pledge the nominees of this convention the best efforts of a great party whose founder announced the doctrine which guides us now in the hour of our country's need:

Equal rights to all; special privileges to none.

274. THE TWENTIETH AMENDMENT

This amendment was proposed to the legislatures of the several states on March 2, 1932, and proclaimed February 6, 1933.

Statutes at Large of the United States, Vol. 47, Pt. II, pp. 2569-2570.

ARTICLE 20.

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3rd day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.

SEC. 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom

the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

275. THE BANK HOLIDAY

As March 4, 1933, approached, the economic situation within the country was growing progressively worse. In July, 1931, conditions had taken a turn for the better but by that time the international effects of the failure of the Credit Anstalt in Austria had begun to make themselves felt in the United States and by September the decline was again apparent. Approximately 15,000,000 persons were unemployed; in February, 1933, the Detroit banks crashed with ominous forebodings. Between 1930 and 1933, 5,504 banks had closed with deposits aggregating \$3,432,000,000; the total output of industrial production, as well as labor's income, had fallen off about 40%; and the farmer's purchasing power had been cut in half. In the latter part of February the situation became truly alarming. The fact that the President-elect had surrounded himself with advisers possessing very pronounced views on currency manipulation resulted in loss of confidence with consequent withdrawals of currency from the banks, hoarding of gold, and flight of gold from the dollar. President Hoover strove desperately to stem the tide by securing the passage of the Glass Banking Bill and by trying to obtain the repeal of the House of Representatives' action requiring publicity of the Reconstruction Finance Corporation's loans to banks, which was further undermining confidence in the financial structure. Endeavoring unsuccessfully to secure the coöperation of Roosevelt, the President turned to the Democratic leaders of Congress for suggestions for restoring confidence and halting the flight of gold. Various expedients were considered — among others, a national banking holiday. Nothing, however, could be done without Roosevelt's coöperation which was not forthcoming. By inauguration day, 90% of the country's banks had closed their doors. Roosevelt acted promptly. Taking advantage of sections 5(b) and 16 of the Trading with the Enemy Act of October 6, 1917, which had never been repealed, authorizing the President to issue an emergency proclamation "for the purpose of limiting the use of coin

and currency to necessary purposes," he proclaimed March 6-9, later extended to March 11, a bank holiday.

F. D. Roosevelt, The Public Papers and Addresses of Franklin D. Roosevelt, II, pp. 61-65.

FIRST FIRESIDE CHAT (BANKING).

(12 March, 1933)

I WANT to talk for a few minutes with the people of the United States about banking — with the comparatively few who understand the mechanics of banking but more particularly with the overwhelming majority who use banks for the making of deposits and the drawing of checks. I want to tell you what has been done in the last few days, why it was done, and what the next steps are going to be. I recognize that the many proclamations from State capitols and from Washington, the legislation, the Treasury regulations, etc., couched for the most part in banking and legal terms, should be explained for the benefit of the average citizen. I owe this in particular because of the fortitude and good temper with which everybody has accepted the inconvenience and hardships of the banking holiday. I know that when you understand what we in Washington have been about I shall continue to have your coöperation as fully as I have had your sympathy and help during the past week.

First of all, let me state the simple fact that when you deposit money in a bank the bank does not put the money into a safe deposit vault. It invests your money in many different forms of credit — bonds, commercial paper, mortgages and many other kinds of loans. In other words, the bank puts your money to work to keep the wheels of industry and of agriculture turning around. A comparatively small part of the money you put into the bank is kept in currency — an amount which in normal times is wholly sufficient to cover the cash needs of the average citizen. In other words, the total amount of all currency in the country is only a small fraction of the total deposits in all of the banks.

What, then, happened during the last few days of February and the first few days of March? Because of the undermined confidence on the part of the public, there was a general rush by a large portion of our population to turn bank deposits into currency or gold — a rush so great that the soundest banks could not get enough currency to meet the demand. The reason for this was that on the spur of the moment it was, of course, impossible to sell perfectly sound assets of a bank and convert them into cash except at panic prices far below their real value.

By the afternoon of March 3rd scarcely a bank in the country was open to do business. Proclamations temporarily closing them in whole or in part had been issued by the Governors in almost all the States.

It was then that I issued the proclamation providing for the nationwide bank holiday, and this was the first step in the Government's reconstruction of our financial and economic fabric.

The second step was the legislation promptly and patriotically passed by the Congress confirming my proclamation and broadening my powers so that it became possible in view of the requirement of time to extend the holiday and lift the ban of that holiday gradually. This law also gave authority to develop a program of rehabilitation of our banking facilities. I want to tell our citizens in every part of the Nation that the national Congress—Republicans and Democrats alike—showed by this action a devotion to public welfare and a realization of the emergency and the necessity for speed that it is difficult to match in our history.

The third stage has been the series of regulations permitting the banks to continue their functions to take care of the distribution of food and household necessities and the payment of payrolls [sic].

This bank holiday, while resulting in many cases in great inconvenience, is affording us the opportunity to supply the currency necessary to meet the situation. No sound bank is a dollar worse off than it was when it closed its doors last Monday. Neither is any bank which may turn out not to be in a position for immediate opening. The new law allows the twelve Federal Reserve Banks to issue additional currency on good assets and thus the banks which reopen will be able to meet every legitimate call. The new currency is being sent out by the Bureau of Engraving and Printing in large volume to every part of the country. It is sound currency because it is backed by actual, good assets.

A question you will ask is this: why are all the banks not to be reopened at the same time? The answer is simple. Your Government does not intend that the history of the past few years shall be repeated. We do not want and will not have another epidemic of bank failures.

As a result, we start tomorrow, Monday, with the opening of the banks in the twelve Federal Reserve Bank cities—those banks which on first examination by the Treasury have already been found to be all right. This will be followed on Tuesday by the resumption of all their functions by banks already found to be sound in cities where there are recognized clearing houses. That means about 250 cities of the United States.

On Wednesday and succeeding days banks in smaller places all through the country will resume business, subject, of course, to the Government's physical ability to complete its survey. It is necessary that the

reopening of banks be extended over a period in order to permit the banks to make applications for necessary loans, to obtain currency needed to meet their requirements, and to enable the Government to make common sense check ups.

Let me make it clear to you that if your bank does not open the first day you are by no means justified in believing that it will not open. A bank that opens on one of the subsequent days is in exactly the same status as the bank that opens tomorrow.

I know that many people are worrying about State banks not members of the Federal Reserve System. These banks can and will receive assistance from member banks and from the Reconstruction Finance Corporation. These State banks are following the same course as the National banks except that they get their licenses to resume business from the State authorities, and these authorities have been asked by the Secretary of the Treasury to permit their good banks to open up on the same schedule as the national banks. I am confident that the State Banking Departments will be as careful as the national Government in the policy relating to the opening of banks and will follow the same broad policy.

It is possible that when the banks resume a very few people who have not recovered from their fear may again begin withdrawals. Let me make it clear that the banks will take care of all needs—and it is my belief that hoarding during the past week has become an exceedingly unfashionable pastime. It needs no prophet to tell you that when the people find that they can get their money—that they can get it when they want it for all legitimate purposes—the phantom of fear will soon be laid. People will again be glad to have their money where it will be safely taken care of and where they can use it conveniently at any time. I can assure you that it is safer to keep your money in a reopened bank than under the mattress.

The success of our whole great national program depends, of course, upon the coöperation of the public—on its intelligent support and use of a reliable system.

Remember that the essential accomplishment of the new legislation is that it makes it possible for banks more readily to convert their assets into cash than was the case before. More liberal provision has been made for banks to borrow on these assets at the Reserve Banks and more liberal provision has also been made for issuing currency on the security of these good assets. This currency is not fiat currency. It is issued only on adequate security, and every good bank has an abundance of such security.

One more point before I close. There will be, of course, some banks unable to reopen without being reorganized. The new law allows the

Government to assist in making these reorganizations quickly and effectively and even allows the Government to subscribe to at least a part of new capital which may be required.

I hope you can see from this elemental recital of what your Government is doing that there is nothing complex, or radical, in the process.

We had a bad banking situation. Some of our bankers had shown themselves either incompetent or dishonest in their handling of the people's funds. They had used the money entrusted to them in speculations and unwise loans. This was, of course, not true in the vast majority of our banks, but it was true in enough of them to shock the people for a time into a sense of insecurity and to put them into a frame of mind where they did not differentiate, but seemed to assume that the acts of a comparative few had tainted them all. It was the Government's job to straighten out this situation and do it as quickly as possible. And the job is being performed.

I do not promise you that every bank will be reopened or that individual losses will not be suffered, but there will be no losses that possibly could be avoided; and there would have been more and greater losses had we continued to drift. I can even promise you salvation for some at least of the sorely pressed banks. We shall be engaged not merely in reopening sound banks but in the creation of sound banks through reorganization.

It has been more than wonderful to me to catch the note of confidence from all over the country. I can never be sufficiently grateful to the people for the loyal support they have given me in their acceptance of the judgment that has dictated our course, even though all our processes may not have seemed clear to them.

After all, there is an element in the readjustment of our financial system more important than currency, more important than gold, and that is the confidence of the people. Confidence and courage are the essentials of success in carrying out our plan. You people must have faith; you must not be stampeded by rumors or guesses. Let us unite by banishing fear. We have provided the machinery to restore our financial system; it is up to you to support and make it work.

It is your problem no less than it is mine. Together we cannot fail.

276. AGRICULTURAL ADJUSTMENT ACT, 12 MAY, 1933

With the rapid growth of American industry and population, American agriculture experienced an unprecedented prosperity between 1900 and

1914. This prosperity was further enhanced under the stimulus of war demands between 1914 and 1919. Prices of farm products and land values rose steadily with huge acreage increases and consistent growth of the farm mortgage structure. This prosperity, furthermore, brought in its train a rising standard of farm living, farm mechanization, and growing demand for state services. In 1920, however, deflation set in and, while industry recovered by 1922, farm prices and land values continued to decline. The export market for American agricultural produce all but disappeared, while the average per capita domestic consumption remained almost unchanged. Total farm income fell from \$15,000,000,000 in 1919 to \$12,000,000,000 in 1929, and to \$5,200,000,000 in 1932. At the same time, huge surpluses of agricultural staples accumulated which could not be disposed of at even the depressed prices, thus tending further to upset the delicate economic balance. Both the Harding and Coolidge administrations had struggled unsuccessfully with the problem. The Hoover administration attempted a solution by means of voluntary acreage reduction through farm coöperatives and market operations by the Farm Board. This attempt was only partially successful for, by February, 1933, the exchange value of agricultural products for industrial goods had fallen to 50% of the pre-war average.

The Agricultural Adjustment Act remained in effect until 1936, when it was invalidated by the United States Supreme Court, in *United States v. Butler* (297 U. S. 1). The Court said, in part:

"We are not now required to ascertain the scope of the phrase 'general welfare of the United States' or to determine whether an appropriation in aid of agriculture falls within it. . . The Act invades the reserved rights of the states. It is a statutory plan to regulate and control agricultural production, a matter beyond the powers delegated to the federal government. The tax, the appropriation of the funds raised, and the direction for their disbursement, are but parts of the plan. They are but means to an unconstitutional end."

In order to continue the farm program Congress, in 1936, passed the Soil Conservation and Domestic Allotment Act, which met the Court's objections by turning the program over to the states, and followed this with the Agricultural Adjustment Act of 1938.

Titles II and III of the Agricultural Adjustment Act of 1933 attempted additional relief for the farmer. Title II, "Emergency Farm Mortgage Act of 1933," sought to ease the farmers' debt burden and halt foreclosures by loans to permit the refinancing of farm mortgages at lower rates of interest. Title III, the "Thomas Amendment," in the hope of bringing about a rise in the prices of agricultural products, authorized the President to devalue the dollar to between 40 and 50 per cent

of its value as well as to undertake open market operations, through the Federal Reserve Bank, in government securities to the extent of three billion dollars, or to add three billion dollars of paper currency to the circulating medium.

Agricultural Adjustment, A Report of the Administration of the Agricultural Adjustment Act May 1933 to February 1934, *Washington, Government Printing Office, 1934.*

II. PURPOSES SET FORTH IN THE ACT

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TITLE I of this act is known as the *Agricultural Adjustment Act*. It directs and empowers the Secretary of Agriculture to take certain measures to increase agricultural purchasing power as an essential step toward promoting general revival, by raising farm prices, and it authorizes him to appoint such officers and employees, subject to the provisions of the Classification Act of 1923 [Civil-Service Act] and acts amendatory thereof, and such experts as are necessary to execute the functions vested in him by this title.

PRE-WAR PERIOD IS BASE

The Congress of the United States declared in section 2 of the Agricultural Adjustment Act that its policy is to establish and maintain such balance between the production and consumption of agricultural commodities and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period. The base period in the case of all agricultural commodities except tobacco is the pre-war period, August 1909 to July 1914. In the case of tobacco the base period is the post-war period, August 1919 to July 1929. This variation from the base period established for other commodities is due to the fact that tobacco-consuming habits of the entire world have changed since the war, and the pre-war conditions of production and demand no longer accurately represent the present condition of the tobacco industry.

Reestablishment of prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, does not necessarily imply prices of farm

products in dollars the same as they were before the war; but it means that farmers selling the same volume of farm goods would be able to buy, with their returns, the same volume of manufactured goods that they were able to buy in the period 1909-14.

The evident purpose of the act is to promote the prosperity of the farmer by returning to him a fair share of the national income and to foster national recovery by making the farmer as good a customer for nonagricultural industries and services as he was before the World War.

GRADUAL CORRECTION OF INEQUALITIES

The act states that it is the policy of Congress to approach equality of purchasing power for the farmer by gradual correction of the present inequalities at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets. . . .

It was also recognized that a precipitous scaling-up of prices would in some instances disrupt consumer-producer relations and actually reduce consumption to an extent that would do more harm than good to agricultural producers. A reasonable relationship must be maintained between prices and effective demand. Raising prices too rapidly would, in the case of some commodities, outdistance the purchasing power of consumers and impede national recovery.

CONSUMERS ARE PROTECTED

The fixing of a pre-war parity standard is a definite protection to consumers against exorbitant or starvation prices, but the act provides another specific protection.

It is also declared the policy of Congress to protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer, above the percentage which was returned to the farmer in the pre-war period, August 1909 to July 1914.

Thus the mandate of consumer protection contained in the act is second only to that of assistance to producers.

III. POWERS UNDER THE ACT

Roughly, the principal powers granted by Congress to effectuate the purposes of the act fall into two groups — those dealing with production

control and benefit contracts and those dealing with marketing agreements and licenses.

PRODUCTION CONTROL AND BENEFIT CONTRACTS

Powers in the first group enable the Agricultural Adjustment Administration to take measures to balance production of farm goods with effective demand for them, and thus to bring about increased farm income and farm purchasing power with a sound economic base resting upon the laws of supply and demand. Authority granted for this purpose recognizes the existence of overproduction and of a burdensome surplus of many farm products; it recognizes the necessity of reducing this oversupply and refraining from further overproduction that maintains and adds to it if the farmer is to receive his fair share of the national income. This group of powers enables the United States Government to assist farmers in making an adjustment in their production which it is impossible for them to make unaided and acting as individuals.

The act authorizes the use of several methods, separately or in combination, to make this adjustment. It provides a method of giving financial assistance through benefit payments to farmers who, voluntarily and not otherwise, cooperate with the Government in making the necessary adjustment.¹ Therefore, it offers an incentive for cooperation and none for not cooperating.

SEVEN BASIC COMMODITIES

Under the act, benefit payments may be made to the producers of seven "basic agricultural commodities." These are wheat, cotton, corn, hogs, rice, tobacco, and milk and its products. They are listed as basic for several reasons. One is that changes in their price strongly influence changes in the prices of other agricultural commodities. Another is that the United States produces an exportable surplus of nearly all of them. Export demand and world price of each had fallen sharply before the act was passed, and these commodities were generally in a relatively worse

¹ Benefit payments were made to cooperating farmers by payment of rentals for lands taken out of production. In some staples, notably cotton, payments were made for the plowing under of growing crops. Large numbers of hogs were slaughtered and other numbers were purchased by the Department of Agriculture, processed, and the meat turned over to relief agencies for distribution to the needy. Loans were, also, made to farmers to enable them to withhold surpluses from market. Drought and adverse weather conditions, however, proved to be more effective agencies in reducing production than the farm plan.

economic situation than the others that are produced and consumed on a domestic basis. A third reason is that each of these commodities is put through some manufacturing process before it is ready for human consumption, and their production and distribution can be more easily regulated in these processing channels than could the production and distribution of commodities not so processed.

MARKETING AGREEMENTS AND LICENSES

The second group of power contained in the act is also directed toward giving the producer of agricultural commodities more nearly his fair share of the national income. These powers are conferred by the marketing agreement section of the act and relate to trade practices among processors and distributors of farm products. They make the Government both an arbiter and a partner in agreements among associations of producers, processors, and distributors of farm goods. Like the benefit contracts, these powers are designed to assist in restoring parity prices to farmers while protecting the consumer from unfair increases in his costs.

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Powers under the marketing agreement section are not limited to the seven basic commodities as in the case of production control powers but may be applied to all agricultural produce. Furthermore, agreements may extend from the producer to the consumer and may touch every point in the chain of distribution.

Because of the latitude allowed by the act, it is possible to vary the agreements so as to meet special circumstances in the several industries with which such agreements have been made.

OBJECT IS TO HELP THE FARMERS

The theory of the agreements is that they should not only bring about a better price for the producer, but should assist the industry in increasing its efficiency in processing and marketing so that better prices to the farmer can be obtained at relatively little additional cost to the consumer.

The law provides that any practice which is permitted by a marketing agreement shall not be held to be in violation of any of the anti-trust laws of the United States. Thus, such agreements may regulate trade practices, production quotas, prices, supply areas, and relationships among various branches of trade. They are designed to prevent destructive competition and to assure fair treatment for producers, distributors, and consumers of farm products or goods made from farm products.

The Secretary is empowered to grant licenses to processors and distributors and others handling agricultural products or competing com-

modities and to fix the terms of the licenses. The license power has frequently been used to make effective the terms of a marketing agreement. Failure to conform to such licenses leads to revocation or suspension of the license and doing business thereafter without a license is a violation of the law and subject to a suitable penalty.

The powers conferred by the Agricultural Adjustment Act, then, are directed toward economically balanced production of agricultural commodities on the one hand, looking toward a fairer share of the national income for farmers, and, on the other hand, a system of distributing farm products that will be economically sound.

IV. FINANCING THE ADJUSTMENT PROGRAM

The Agricultural Adjustment Act made provision for processing taxes, the proceeds of which are available for rental and benefit payments, expansion of markets, removal of surplus agricultural products, administrative expenses, and refunds on taxes. Section 9 (*a*) of the act provides for the levying of a processing tax on commodities with respect to which rental or benefit payments are to be made. Such a tax is levied upon the first domestic processing of the commodity, and is collected by the Bureau of Internal Revenue.

NORMAL PROCESSING TAX RATE FIXED BY LAW

The normal rate of the processing tax is by law fixed at the difference between the current average farm price and the fair exchange value of the commodity. However, it was foreseen that in some cases if the manufacturer had to pay all of the difference he might be obliged to raise the price of the articles he sold to the consumer to a point where the consumer would no longer buy his product in the same quantity that he had been buying it previously. If this happened, a surplus of the product would accumulate on the shelves, and the price of the article and the price the processor paid to the producer would be depressed. Consequently, it is provided that, if the Secretary has reason to believe that the tax at the full rate will cause such reduction in the quantity of the commodity or products thereof domestically consumed as to result in the accumulation of surplus stocks and the depression of the farm price of the commodity, he shall cause an appropriate investigation to be made and afford due notice and opportunity for hearing to interested parties; and thereafter fix the tax at a lower rate if the facts indicate the full rate would be so high as to cause such difficulties.

The rates of processing taxes are in all cases fixed by the Secretary of Agriculture in accordance with the formulas prescribed by Congress in the act, and any given tax is in effect during the "marketing year" specified in his proclamation. The Secretary may change the rate of tax during the marketing year if the parity price advances, or if after a public hearing it is shown that such a change is advisable. Under the law no public hearing is necessary prior to fixing the rate of the processing tax unless the Secretary has reason to believe that the full amount of the tax cannot be levied without depressing the farm price or causing an accumulation of surpluses.

COMPENSATING TAXES

Provision is also made by the Agricultural Adjustment Act for what are known as compensating taxes.

If it is found that the payment of the processing tax upon any basic commodity is causing or will cause to the processors thereof disadvantages in competition from competing commodities by reason of excessive shifts in consumption between such commodities, a compensating tax is levied upon the first domestic processing of the competing commodities at such rate as is necessary to prevent such disadvantages in competition.

Another form of compensating tax is upon articles imported into the United States, which are processed or manufactured wholly or in chief value from a commodity on which a processing tax is in effect. Such compensating taxes upon imported articles are designed to maintain the previously existing competitive relation as between the domestic and the imported article.

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V. FUNCTIONS OF THE PROCESSING TAX

From the foregoing explanation of the operation of the Agricultural Adjustment Act, it will be seen that as far as basic commodities are concerned, the processing tax is the heart of the law. The processing tax is a means of raising revenue for accomplishing one or both of two things intended to help the farmers attain parity prices and purchasing power.

VOLUNTARY ADJUSTMENT OF PRODUCTION

The first is the adjustment of production by the farmers on a voluntary basis. With funds from the processing tax, benefit payments may be

made by the Government to producers who cooperate in programs of adjustment. In this way they receive a greater return than the noncooperators, who may have more of the product to sell but who do not receive any benefit payments.

Stated in another way, the processing tax and benefit payment plan is a method by which the centralizing power of the Government is brought to the assistance of the farmers. Experience of cooperative associations and other groups has shown that without such Government support, the efforts of the farmers to band together to control the amount of their products sent to market are nearly always brought to nothing. . . .

It is to keep this noncooperating minority in line, or at least prevent it from doing harm to the majority, that the power of the Government has been marshaled behind the adjustment programs. The Government, by affording cooperating farmers, a definite tangible advantage over noncooperating minorities, is merely helping the farmers to do what closely knit industrial organizations have long been able to do for themselves. With this power over volume of production, the farmers, like the highly organized industrial groups, now have a chance to avoid burdening the markets with amounts of their product which cannot be sold except at ruinously low prices. By keeping production in line with effective demand, the farmers receive substantially higher prices and increased gross income. Producing a smaller volume means decreased costs of production, and thus their net income is increased even more.

DIRECT CONTRIBUTION TO INCOME

The second way in which the processing tax and benefit plan helps the farmers is in making a direct contribution to their income. . . .

By establishing the parity principle for agriculture, Congress, in the Agricultural Adjustment Act, recognized a fundamental concept of the national recovery program, which is that those large economic groups performing essential functions for society must have a fair share in the national income. The benefit payments may be considered a form of compensation by the rest of society to farmers for their service in supplying food and raw materials.

A CONTINUING SOURCE OF REVENUE

Both of these functions of the benefit payment system are made possible by the processing tax, which is a continuing source of revenue and is not dependent upon lump-sum appropriations made from time to time by Congress. So far as possible, the receipts from processing taxes on any

given commodity are used for benefit payments to the producers of that particular commodity.

In some cases, for some periods, it is true, the price received by the farmers appears to be reduced, in whole or in part, by the amount of the processing tax. But a little reflection will show that even if it is, the farmers—or at least those who cooperate in adjustment programs—still are, in the long run, assisted by it. Revenue from the tax comes back to the cooperating farmers in the form of benefit payments; and they are enabled to bring about adjustments in production which eventually increase their returns.

Thus, the processing tax, instead of being a means by which the Government takes away part of the farmers' income, is really a means by which the Government helps to increase their income. If the farmers fully understand the tax, they will realize that it is an instrument which operates on their behalf and protects and augments their cooperative efforts.

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277. TENNESSEE VALLEY AUTHORITY

Congress in 1916, as a war measure to insure an adequate supply of nitrogen for the manufacture of explosives, authorized the construction of two nitrogen fixation plants at Muscle Shoals, Alabama, on the Tennessee River. Here a sufficient quantity of cheap power could be generated by the construction of a dam. The plants, however, were not completed until the signing of the armistice, and Wilson dam not until 1925. Both President Coolidge and President Hoover vetoed bills providing for the adequate utilization of the nitrate plants for the manufacture of fertilizer and the sale of power at Muscle Shoals. Up to 1933, the electrical plant was operated by army engineers and the power generated was sold to local companies. On April 10, 1933, President Roosevelt asked Congress for legislation creating the Tennessee Valley Authority, "clothed with the power of government but possessed of the flexibility and initiative of a private enterprise." The Muscle Shoals plant was to be the first unit in the projected development of the entire Tennessee Valley envisioning "The wide fields of flood control, soil erosion, afforestation, elimination from agricultural use of marginal lands, and distribution and diversification of industry." The two nitrate fixation plants at Muscle Shoals were arranged for the production of commercial fertilizers but adjusted for munitions production on short notice. In order to maintain a

nine foot channel for navigation and to control floods, ten dams, with the necessary locks will have to be built on the Tennessee and its tributaries. The flow of the Tennessee is extremely variable. At times the violent floods that erode the soil and increase the destructiveness of high waters on the Ohio and Mississippi Rivers will have to be impounded in reservoirs from which, at other times, water will have to be released to maintain navigation. Power will be generated at these dams incidentally. In order to obtain a market for the power generated, transmission lines have been built, P.W.A. grants have been made to communities and co-operative power associations for the construction of transmission systems and rural lines, arrangements have been made for the manufacture and sale of cheap quality electrical appliances, and electric rates reduced to a very low level. Field experiments have been carried on with the fertilizer produced. Soil coverage crops have been planted and reforestation has been carried forward with a view to halting erosion. Social work of various natures has been carried out under the direction of the Tennessee Valley Authority. The aim has been to raise the general standard of living of the entire population of the area. In 1934, the administration spoke of using the T.V.A. as a "yardstick" to determine the reasonableness of prices charged for power and fertilizer throughout the Nation. The constitutionality of certain aspects of the Tennessee Valley Authority Act were attacked in the courts in *Ashwander v. Tennessee Valley Authority*, 279 U. S. 288 (1936). The Supreme Court ruled only on such aspects of the Act as had been called into question, upholding the Government's contentions on all points.

Statutes at Large of the United States, Vol. 48, Public Laws, Pp. 58-72.

AN ACT

TO IMPROVE THE NAVIGABILITY AND TO PROVIDE FOR THE FLOOD CONTROL OF THE TENNESSEE RIVER; TO PROVIDE FOR REFORESTATION AND THE PROPER USE OF MARGINAL LANDS IN THE TENNESSEE VALLEY; TO PROVIDE FOR THE AGRICULTURAL AND INDUSTRIAL DEVELOPMENT OF SAID VALLEY; TO PROVIDE FOR THE NATIONAL DEFENSE BY THE CREATION OF A CORPORATION FOR THE OPERATION OF GOVERNMENT PROPERTIES AT AND NEAR MUSCLE SHOALS IN THE STATE OF ALABAMA, AND FOR OTHER PURPOSES.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of maintaining and operating the properties now owned by the United States in the vicinity of Muscle Shoals, Alabama, in the interest of the national defense and for agricultural and industrial development, and to improve navigation in the Tennessee River and to control the destructive flood waters in the Tennessee River and Mississippi River Basins, there is hereby created a body corporate by the name of the "Tennessee Valley Authority" (hereinafter referred to as the "Corporation"). . . . This Act may be cited as the "Tennessee Valley Authority Act of 1933."

SEC. 2. (a) The board of directors of the Corporation (hereinafter referred to as the "board") shall be composed of three members, to be appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the board, the President shall designate the chairman. All other officials, agents, and employees shall be designated and selected by the board.

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(g) The board shall direct the exercise of all the powers of the Corporation.

(h) All members of the board shall be persons who profess a belief in the feasibility and wisdom of this Act.

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SEC. 4. Except as otherwise specifically provided in this Act, the Corporation —

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(b) May sue and be sued in its corporate name.

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(d) May make contracts, as herein authorized.

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(h) Shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this Act.

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(j) Shall have power to construct dams, reservoirs, power houses,

power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.

SEC. 5. The board is hereby authorized —

(a) To contract with commercial producers for the production of such fertilizers or fertilizer materials as may be needed in the Government's program of development and introduction in excess of that produced by Government plants. Such contracts may provide either for outright purchase of materials by the board or only for the payment of carrying charges on special materials manufactured at the board's request for its program.

(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction.

(d) The board in order to improve and cheapen the production of fertilizer is authorized to manufacture and sell fixed nitrogen, fertilizer, and fertilizer ingredients at Muscle Shoals by the employment of existing facilities, by modernizing existing plants, or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen or the cheapening of the production of fertilizer.

.....

(f) The board is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct new plants.

(g) In the event it is not used for the fixation of nitrogen for agricultural purposes or leased, then the board shall maintain in stand-by condition nitrate plant numbered 2, or its equivalent, for the fixation of atmospheric nitrogen, for the production of explosives in the event of war or a national emergency, until the Congress shall by joint resolution release the board from this obligation, and if any part thereof be used by the board for the manufacture of phosphoric acid or potash, the balance of nitrate plant numbered 2 shall be kept in stand-by condition.

.....

(j) Upon the requisition of the Secretary of War or the Secretary of the Navy to manufacture for and sell at cost to the United States explosives or their nitrogenous content.

(k) Upon the requisition of the Secretary of War the Corporation

shall allot and deliver without charge to the War Department so much power as shall be necessary in the judgment of said Department for use in operation of all locks, lifts, or other facilities in aid of navigation.

(1) To produce, distribute, and sell electric power, as herein particularly specified.

(m) No products of the Corporation shall be sold for use outside of the United States, its Territories and possessions, except to the United States Government for the use of its Army and Navy, or to its allies in case of war.

.....

SEC. 7. In order to enable the Corporation to exercise the powers and duties vested in it by this Act —

(a) The exclusive use, possession, and control of the United States nitrate plants numbered 1 and 2, including steam plants, located, respectively, at Sheffield, Alabama, and Muscle Shoals, Alabama, together with all real estate and buildings connected therewith, all tools and machinery, equipment, accessories, and materials belonging thereto, and all laboratories and plants used as auxiliaries thereto; the fixed-nitrogen research laboratory, the Waco limestone quarry, in Alabama, and Dam Numbered 2, located at Muscle Shoals, its power house, and all hydro-electric and operating appurtenances (except the locks), and all machinery, lands, and buildings in connection therewith, and all appurtenances thereof, and all other property to be acquired by the Corporation in its own name or in the name of the United States of America, are hereby intrusted to the Corporation for the purposes of this Act.

.....

SEC. 10. The board is hereby empowered and authorized to sell the surplus power not used in its operations, and for operation of locks, and other works generated by it, to States, counties, municipalities, corporations, partnerships, or individuals, according to the policies hereinafter set forth; and to carry out said authority, the board is authorized to enter into contracts for such sale for a term not exceeding twenty years, and in the sale of such current by the board it shall give preference to States, counties, municipalities, and cooperative organizations of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members: *Provided*, That all contracts made with private companies or individuals for the sale of power, which power is to be resold for a profit, shall contain a provision authorizing the board to cancel said contract upon five years' notice in writing, if the board needs said power to supply the demands of States, counties, or municipalities. In order to promote and

encourage the fullest possible use of electric light and power on farms within reasonable distance of any of its transmission lines the board in its discretion shall have power to construct transmission lines to farms and small villages that are not otherwise supplied with electricity at reasonable rates, and to make such rules and regulations governing such sale and distribution of such electric power as in its judgment may be just and equitable: *Provided further*, That the board is hereby authorized and directed to make studies, experiments, and determinations to promote the wider and better use of electric power for agricultural and domestic use, or for small or local industries, and it may cooperate with State governments, or their subdivisions or agencies, with educational or research institutions, and with cooperatives or other organizations, in the application of electric power to the fuller and better balanced development of the resources of the region.

SEC. 11. It is hereby declared to be the policy of the Government so far as practical to distribute and sell the surplus power generated at Muscle Shoals equitably among the States, counties, and municipalities within transmission distance. This policy is further declared to be that the projects herein provided for shall be considered primarily as for the benefit of the people of the section as a whole and particularly the domestic and rural consumers to whom the power can economically be made available, and accordingly that sale to and use by industry shall be a secondary purpose, to be utilized principally to secure a sufficiently high load factor and revenue returns which will permit domestic and rural use at the lowest possible rates and in such manner as to encourage increased domestic and rural use of electricity. It is further hereby declared to be the policy of the Government to utilize the Muscle Shoals properties so far as may be necessary to improve, increase, and cheapen the production of fertilizer and fertilizer ingredients by carrying out the provisions of this Act.

SEC. 12. In order to place the board upon a fair basis for making such contracts and for receiving bids for the sale of such power, it is hereby expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such power, or from funds secured by the sale of bonds [hereafter provided for], to construct, lease, purchase, or authorize the construction of transmission lines within transmission distance from the place where generated, and to interconnect with other systems. The board is also authorized to lease to any person, persons, or corporation the use of any transmission line owned by the Government and operated by the board, but no such lease shall be made that in any way interferes with the use of such transmission line by the board:

.....

SEC. 17. The Secretary of War, or the Secretary of the Interior, is hereby authorized to construct, either directly or by contract to the lowest responsible bidder, after due advertisement, a dam in and across the Clinch River in the State of Tennessee, which has by long custom become known and designated as the Cove Creek Dam, together with a transmission line from Muscle Shoals, according to the latest and most approved designs, including power house and hydroelectric installations and equipment for the generation of power, in order that the waters of the said Clinch River may be impounded and stored above said dam for the purpose of increasing and regulating the flow of the Clinch River and the Tennessee River below, so that the maximum amount of primary power may be developed at Dam Numbered 2 and at any and all other dams below the said Cove Creek Dam:

.

SEC. 20. The Government of the United States hereby reserves the right, in case of war or national emergency declared by Congress, to take possession of all or any part of the property described or referred to in this Act for the purpose of manufacturing explosives or for other war purposes; but, if this right is exercised by the Government, it shall pay the reasonable and fair damages that may be suffered by any party whose contract for the purchase of electric power or fixed nitrogen or fertilizer ingredients is hereby violated, after the amount of the damages has been fixed by the United States Court of Claims in proceedings instituted and conducted for that purpose under rules prescribed by the court.

.

SEC. 22. To aid further the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and of such adjoining territory as may be related to or materially affected by the development consequent to this Act, and to provide for the general welfare of the citizens of said areas, the President is hereby authorized, by such means or methods as he may deem proper within the limits of appropriations made therefor by Congress, to make such surveys of and general plans for said Tennessee basin and adjoining territory as may be useful to the Congress and to the several States in guiding and controlling the extent, sequence, and nature of development that may be equitably and economically advanced through the expenditure of public funds, or through the guidance or control of public authority, all for the general purpose of fostering an orderly and proper physical, economic, and social development of said areas; and the President is further authorized in making said surveys and plans to cooperate with the States af-

fectured thereby, or subdivisions or agencies of such States, or with co-operative or other organizations, and to make such studies, experiments, or demonstrations as may be necessary and suitable to that end.

SEC. 23. The President shall, from time to time, as the work provided for in the preceding section progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section, and for the especial purpose of bringing about in said Tennessee drainage basin and adjoining territory in conformity with said general purposes (1) the maximum amount of flood control; (2) the maximum development of said Tennessee River for navigation purposes; (3) the maximum generation of electric power consistent with flood control and navigation; (4) the proper use of marginal lands; (5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; and (6) the economic and social well-being of the people living in said river basin.

.....

SEC. 26. The net proceeds derived by the board from the sale of power and any of the products manufactured by the Corporation, after deducting the cost of operation, maintenance, depreciation, amortization, and an amount deemed by the board as necessary to withhold as operating capital, or devoted by the board to new construction, shall be paid into the Treasury of the United States at the end of each calendar year.

.....

SEC. 30. The sections of this Act are hereby declared to be separable, and in the event any one or more sections of this Act be held to be unconstitutional, the same shall not affect the validity of other sections of this Act.

Approved, May 18, 1933.

278. NATIONAL INDUSTRIAL RECOVERY ACT

The last months of the Hoover administration and the first of the Roosevelt were months of commotion and vast confusion. Prices of all commodities were steadily falling, unemployment was increasing, banks were closing, and industry, agriculture, foreign trade, the stock and commodity markets had all collapsed. There were as many theories of the cause of the depression and as many remedies suggested as there were advisers around the President-elect. The National Industrial Recovery Act was one of the major items in the plan to re-make America and

overcome the depression and was intended to complement the Agricultural Adjustment Act, which was just then in process of enactment. The Act, approved June 16, 1933, is a composite of many ideas embodying price-fixing and rules of "fair competition," suggested by trade associations, means of increasing production, public works spending, amending of the anti-trust laws, and collective bargaining. Its genesis is hidden in the haste and confusion of the times.

In 1935, the National Industrial Recovery Act came before the Supreme Court of the United States in the case of *Schechter v. United States* (295 U. S. 495) and was held to be unconstitutional in a unanimous decision. The Court said, in part:

. . . "The codes of fair competition which the statute attempts to authorize are codes of laws. If valid, they place all persons within their reach under the obligation of positive law, binding equally those who assent and those who do not assent. Violations of the provisions of the codes are punishable as crimes. . . We think that the code-making authority thus conferred is an unconstitutional delegation of legislative power."

Brookings Institution, The A B C of the N R A, pp. 14-24.

THE NATIONAL INDUSTRIAL RECOVERY ACT

THE National Industrial Recovery Act is made up of three titles. The heading of Title I is Industrial Recovery, of Title II Public Works and Construction Projects, of Title III Amendments to Emergency Relief and Construction Act and Miscellaneous Provisions. The contents of Title III need no consideration in a discussion of the law. Title II authorizes an appropriation of 3.3 billion dollars for the financing of public works. Although strongly supplemental to the purposes of Title I it may be regarded as a separate piece of legislation and will be treated here only in an incidental way. Title I only will be in the foreground of attention.

The law opens with a declaration of policy. It is declared that there exists "a national emergency productive of widespread unemployment and disorganization of industry, which burdens interstate and foreign commerce, affects the public welfare, and undermines the standards of living of the American people. . ." It is then declared to be the policy of Congress (a) to remove obstructions to the free flow of interstate and foreign commerce which tend to diminish its amount (the constitutional basis of the Act); (b) to promote the organization of industry for the purpose of cooperative action among trade groups; (c) to induce and maintain united action of labor and management under adequate gov-

ernment sanction and supervision; (d) to eliminate unfair competitive practices; (e) to promote the fullest possible utilization of the present productive capacity of industries; (f) to avoid undue restriction of production; (g) to increase the consumption of industrial and agricultural products by increasing purchasing power; (h) to reduce and relieve unemployment; (i) to improve standards of labor; and (j) otherwise to rehabilitate industry and conserve natural resources.

The second section of Title I of the Act is essentially an empowering paragraph. This section authorizes the President to establish such agencies; to accept such voluntary services; to appoint, without regard to the civil-service laws such officers and employees; and to utilize such federal officers and employees, and with the consent of the state, such state and local officers, as he may find necessary. Any or all of his functions and powers under the Act he is authorized to delegate to such agents as he may designate or appoint. It is on this authorization of power that the establishment of the National Recovery Administration—the NRA—is based. From the same source is drawn the extensive authority delegated to and exercised by the Administrator, General Hugh S. Johnson.

Section 2 also limits the operation of the Act to two years and authorizes the President to end it sooner by a Proclamation, or the Congress by joint resolution, declaring that the emergency recognized by its opening sentences has ceased to exist.

It is with Section 3 that the real content of the law begins. This section and the four which immediately follow lay out the provisions which have occupied the interest of every industry and attracted the attention of almost every individual citizen since the enactment of the law. These sections are mainly concerned with establishing and enforcing “codes of fair competition” and “agreements” and set out certain limitations and requirements for every code. The idea of the Act is that each trade or industry shall either establish voluntarily, or be compelled to establish, standards on the basis of which all enterprises in the trade or industry shall conduct business. No specific requirement as to what the standards shall be are stated, with certain exceptions to be noted later.

Section 3 (a) lays down the basic procedure under which codes have up to the present been formed. Under this section the initiative is taken by “trade or industrial associations or groups.” The law provides that such groups may place before the President for approval codes of fair competition for their respective trades or industries. The President is authorized to approve such codes, if he finds: (1) That the applicants for a code impose no inequitable restrictions to membership in the groups represented; (2) that the applicants are truly representative of the trades or industries for which they speak; (3) that such proposed codes

are not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against the latter; and (4) that the proposed codes will, in his judgment, tend to effectuate the policy of the law.

Section 3 specifically provides that codes shall not permit monopolies or monopolistic practices, and that persons whose welfare is to be affected shall not be deprived of the right to be heard prior to approval by the President. The President may impose as a condition of his approval such requirements as the making of reports and the keeping of accounts as he believes necessary for the protection of consumers, competitors, employees, and others, and he may make such exceptions to and exemptions from the provisions of codes as he deems necessary.

The approval of a code makes any violations of its provisions an "unfair method of competition" within the meaning of the Federal Trade Commission Act and its amendments. Violations of the terms of a code may, therefore, be proceeded against by the Federal Trade Commission. Section 3, moreover, specifically invests the district courts of the United States with jurisdiction to prevent and restrain violations of the codes. It also makes any violation of code provisions a misdemeanor punishable by a fine of not more than \$500 for each offense, and each day such violation continues is deemed a separate offense.

If trade groups fail to take the initiative in code-making, the President may do so. This power, given in Section 3 (d) of the law, permits the President either upon his own initiative or upon complaints which he believes to justify the action, to prescribe, after such public notice and public hearings as he shall specify, a code of fair competition for any trade or industry for which a code has not already been approved. Such codes have the same status as those initiated by trade groups and approved by the President under the provisions of sub-section (a).

This far-reaching section of the law also gives the President regulatory powers over imports when, on the basis of an investigation by the Tariff Commission, he believes such regulation necessary to render effective the purposes of codes and agreements made under the Act. He is empowered to lay down conditions upon which goods may be imported, to prescribe fees, and to limit the quantity of imports, if he finds such action necessary to prevent any code or agreement from being rendered ineffective. Importers may be forbidden to import without first obtaining a federal license.

In Section 4 (a) is found that grant of power to the President which has become of great significance in supporting the so-called President's Re-employment Agreement (PRA). This section authorizes the President to enter into agreements with and approve voluntary agreements

among persons engaged in trade or industry, labor organizations, and trade and industrial groups, if in his judgment such agreements will aid in accomplishing the purposes of the law. It is under this section that the President issued his nation-wide invitation to employers to agree with him to certain conditions, particularly regarding wages and employment. It is these general agreements which are popularly called "the blanket code," and for which the Blue Eagle was invented. . . .¹

A further expansion of the President's powers embodied in Section 4 (b) authorizes him, whenever he shall find that activities which he believes are contrary to the purpose of the law are being practiced in any trade or industry, to license business enterprises if he shall deem it essential to make effective a code of fair competition or agreement. No person shall, after a date which shall have been fixed in an announcement that licensing is required in an industry, engage in any business specified in such announcement unless he shall first have obtained a license pursuant to the regulations prescribed. Such licenses may be suspended or revoked by the President after hearings, if violations of their terms are demonstrated. Such revocation is declared to be final if in accordance with law, and carrying on of business without a license where a license is required is made a criminal offense. The penalty is a fine of not to exceed \$500 or imprisonment not to exceed six months or both.

The licensing provision, giving the President the power of life or death over business enterprises, is the ultimate weapon of enforcement and the capstone of the powers granted to the President. Recognized as the most extraordinary extension of Presidential power in American history and bitterly attacked in Congress, this provision was made to expire one year after the enactment of the Recovery Act, or sooner if Presidential proclamation or Congressional resolution declares that the emergency recognized by the law has ended.

The powers granted the President are rendered yet more extensive by the provisions of Section 5, which have to do with exemptions from the anti-trust laws. This section provides that codes, agreements, or licenses approved or prescribed, and all actions complying with the provisions of codes or agreements, shall be exempt from the provisions of the anti-trust laws of the United States. The comparison of this provision with the prohibition of "monopolistic practices" in Section 3 creates uncertainty concerning the extent to which the anti-trust laws have been set aside.

Section 5 also includes a declaration that nothing in the Act shall pre-

¹ The "Blue Eagle" was the insignia adopted and displayed by all such industries as had signed codes under the National Industrial Recovery Act and a label bearing this device was attached to all the products of such concerns.

vent an individual from pursuing the vocation of manual labor or selling the products thereof and that the Act and its regulations shall not prevent anyone from marketing or trading the produce of his farm.

.....

Section 7 (a) contains a mandatory prescription as to what must be included in each code adopted. This mandate, comprising three clauses, is designed in the interests of labor. It first declares that every code shall contain the conditions that employees shall have the right to organize and bargain collectively and shall be free from interference of employers in the designation of their representatives or in other concerted activities. This section was made almost immediately famous by controversies which arose over its interpretation in the preliminary discussion of the iron, steel, automobile, coal, and other important codes. The controversy centered around the inclusion in the codes of special clauses sanctioning certain personnel policies of employers, such as the company union and the right of employers to hire and fire according to individual merit. The "merit clause" was finally included in the automobile code, providing that employers "may exercise their right to select, retain or advance employees on the basis of individual merit without regard to their membership or non-membership in any organization." Similar statements were originally included in several other proposed codes, but were finally ruled out by an order from the President that no language qualifying clause 7 (a) should be permitted in any code.

The second part of the mandatory prescription is the inclusion in each code of the condition that no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining or assisting a labor organization of his own choosing. This provision strengthens the Norris-LaGuardia Act of 1932 in outlawing the so-called "yellow-dog" contract to which organized labor has been so long and so vigorously opposed. The third mandatory clause stipulates that each code shall contain the provision that employers shall comply with the maximum hours, rates of pay, and other conditions of employment approved or prescribed by the President.

Following the mandatory provisions described, Section 7 (b) goes on to prescribe that where employers and employees have by mutual agreement established the standards of hours, rates of pay, and such other conditions of employment as may be necessary to effectuate the purposes of the Act, these standards may, upon approval by the President, have the same effect as a code of fair competition. The President is to "afford every opportunity" to employers and employees to arrive at such mutual agreements. Where no such agreement is arrived at or approved, the

President may investigate the situation and prescribe a "limited code of fair competition fixing such maximum hours of labor, minimum rates of pay, and other conditions of employment as he finds necessary to effectuate the policy of the law." The wage and hour provisions of the codes so far approved have not been arrived at under this section but are merely part of the general codes drawn up under Section 3 (a). Since approved agreements under Section 7 (b) "have the same effect as" codes of fair competition, and since the President may prescribe a "limited code of fair competition," the penalties for violation by employers are presumably the same as in Section 3. No penalties are stated for violations of code terms by employees; neither is anything said concerning the right of workers to strike in industries under codes. The agreement provision of Section 7 (b) appears to be a special application of Section 4 (a) giving the force of a code to a particular kind of agreement. The power of the President to prescribe a "limited code" likewise appears to be a special application of Section 3 (d) under which he may prescribe a comprehensive code.

Final sections of Title I of the Act (Sections 8, 9, and 10) deal with its relationships to the Agricultural Adjustment Act, with a special provision concerning oil regulation, and with authorizations to the President for making the law effective. Section 10 might assume a very great significance. This is the final provision of the title, which gives the President power "from time to time to cancel or modify any order, approval, license, rule, or regulation issued under this title," and which requires that every code issued under the law shall contain an express provision to that effect. The President, it appears, is thus authorized to remake in any way any code at any time during the life of the law.

Viewed as a whole, the National Industrial Recovery Act is primarily a piece of enabling legislation. Giving the President unprecedented peacetime powers, it requires nothing of him. He need not promulgate or approve any code. If a code is approved, the only positive requirement, as above stated, is that it include certain labor provisions required by Section 7. Negatively there are a few requirements stated in Section 3 concerning such things as the representative character of trade groups, the prohibition of monopolistic practices, and the interests of small enterprises. Beyond that the President has a free hand.

Indeed, from an examination of the Act alone, it would not be possible to infer definitely what was intended or exactly how the Act was expected to induce recovery. Since the law outlined a procedure for the setting up of codes of fair competition, it might be assumed that prevailing competitive practices were believed to be partly responsible for the continuance of the depression and that a modification of these would

promote recovery. It could also reasonably be inferred that in the setting of standards, those affecting wages and hours of labor were conceived to be of primary importance. Beyond these points the significance of the law is to be found only in the administrative use which has been made, or may be made, of the extensive powers granted. It is a law which, with the exceptions already noted, neither requires nor forbids.

If administered on the plane of voluntary coöperation, the Act provides potentially a constitution for limited self-government by trade groups, subject to government supervision. If, however, administration on that plane does not accomplish the desired results, the constitution may be made one, not of self-government, but of highly autocratic control of business men by the government.

279. THE TWENTY-FIRST AMENDMENT

The prohibition sentiment, so strong during World War days, was steadily ebbing and, as early as 1924, a sharp fight took place in the Democratic convention between the dry forces led by McAdoo and the revisionists headed by Alfred W. Smith who, in the campaign of 1928, openly championed modification of the Eighteenth Amendment. In the Congressional elections of 1930, the drys suffered considerable losses and in the following year the Wickersham Commission reported that, in its opinion, the enforcement of prohibition had been a failure. In the elections of 1932, the Democrats campaigned for the repeal of the Eighteenth Amendment, the return of liquor control to the states, and the legalization of beer which, they contended, would pour \$300,000,000 in taxes into the Federal treasury where it was badly needed to meet the constantly mounting deficit. President Roosevelt, in the campaign, charged that the cause of temperance had not been furthered and that the results of the Eighteenth Amendment had been "corruption and hypocrisy," the flooding of "the country with untaxed and illicit liquor," and "a disregard for law and order." The Twenty-first Amendment was proposed February 20, and ratified December 5, 1933.

Statutes at Large of the United States, Vol. 48, Pt. II, pp. 1749-1750.

ARTICLE 21.

"SECTION 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

"SEC. 2. The transportation or importation into any State, Terri-

tory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

"SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

280. PROCLAMATION FIXING THE WEIGHT OF THE GOLD DOLLAR

By the Thomas Amendment (Title III) to the Agricultural Adjustment Act of 1933, the President had already been given authority to devalue the dollar as well as to issue \$3,000,000,000 in paper currency. Nevertheless, President Roosevelt on January 15, 1934, asked Congress for further specific monetary legislation and the result was the passage of the Gold Reserve Act of 1934. This act, in addition to authorizing the devaluation of the dollar, placed title in the federal government to all gold coin and bullion within the country and set up in the Treasury a fund of \$2,000,000,000, out of the profit accruing to the government from devaluation, to be used for the purpose of stabilizing the exchange value of the dollar by means of dealings in gold and foreign exchange. The Gold Reserve Act of 1934 was promptly challenged in the courts but the government's contentions were upheld by the Supreme Court in two 5 to 4 decisions, Norman v. Baltimore & Ohio Railroad Co. (294 U. S. 240) and Perry v. United States (294 U. S. 330).

Statutes at Large of the United States, Vol. 48, Pt. II, pp. 1730-1731.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, by virtue of Section 1 of the Act of Congress approved March 14, 1900 (31 Stat. L. 45), the present weight of the gold dollar is fixed at twenty-five and eight-tenths grains of gold nine-tenths fine; and

WHEREAS, by Section 43, Title III of the Act approved May 12, 1933 (Public, No. 10, 73d Congress), as amended by Section 12 of the Gold Reserve Act of 1934, it is provided in part as follows:

"Whenever the President finds, upon investigation, that (1) the

foreign commerce of the United States is adversely affected by reason of the depreciation in the value of the currency of any other government or governments in relation to the present standard value of gold, or (2) action under this section is necessary in order to regulate and maintain the parity of currency issues of the United States, or (3) an economic emergency requires an expansion of credit, or (4) an expansion of credit is necessary to secure by international agreement a stabilization at proper levels of the currencies of various governments, the President is authorized, in his discretion —

“(a) To direct the Secretary of the Treasury to enter into agreements with the several Federal Reserve banks and with the Federal Reserve Board whereby the Federal Reserve Board will, and it is hereby authorized to, notwithstanding any provisions of law or rules and regulations to the contrary, permit such reserve banks to agree that they will, (1) conduct, pursuant to existing law, throughout specified periods, open market operations in obligations of the United States Government or corporations in which the United States is the majority stockholder, and (2) purchase directly and hold in portfolio for an agreed period or periods of time Treasury bills or other obligations of the United States Government in an aggregate sum of \$3,000,000,000, in addition to those they may then hold, unless prior to the termination of such period or periods the Secretary shall consent to their sale. . . The Federal Reserve Board, with the approval of the Secretary of the Treasury, may require the Federal Reserve banks to take such action as may be necessary, in the judgment of the Board and of the Secretary of the Treasury, to prevent undue credit expansion.

“(b) If the Secretary, when directed by the President, is unable to secure the assent of the several Federal Reserve banks and the Federal Reserve Board to the agreements authorized in this section, or if operations under the above provisions prove to be inadequate to meet the purposes of this section, or if for any other reason additional measures are required in the judgment of the President to meet such purposes, then the President is authorized —

“(2) By proclamation to fix the weight of the gold dollar in grains nine-tenths fine and also to fix the weight of the silver dollar in grains nine-tenths fine at a definite fixed ratio in relation to the gold dollar at such amounts as he finds necessary from his investigation to stabilize domestic prices or to protect the foreign commerce against the adverse effect of depreciated foreign currencies, and to provide for the unlimited coinage of such gold and silver at the ratio so fixed, or in case the Government of the United States enters into an agreement with any govern-

ment or governments under the terms of which the ratio between the value of gold and other currency issued by the United States and by any such government or governments is established, the President may fix the weight of the gold dollar in accordance with the ratio so agreed upon, and such gold dollar, the weight of which is so fixed, shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity with this standard and it shall be the duty of the Secretary of the Treasury to maintain such parity, but in no event shall the weight of the gold dollar be fixed so as to reduce its present weight by more than 50 per centum. Nor shall the weight of the gold dollar be fixed in any event at more than 60 per centum of its present weight. The powers of the President specified in this paragraph shall be deemed to be separate, distinct, and continuing powers, and may be exercised by him, from time to time, severally or together, whenever and as the expressed objects of this section in his judgment may require; except that such powers shall expire two years after the date of enactment of the Gold Reserve Act of 1934 unless the President shall sooner declare the existing emergency ended, but the President may extend such period for not more than one additional year after such date by proclamation recognizing the continuance of such emergency"; and

WHEREAS, I find, upon investigation, that the foreign commerce of the United States is adversely affected by reason of the depreciation in the value of the currencies of other governments in relation to the present standard value of gold, and that an economic emergency requires an expansion of credit; and

WHEREAS, in my judgment, measures additional to those provided by subsection (a) of said Section 43 are required to meet the purposes of such Section; and

WHEREAS, I find, from my investigation, that, in order to stabilize domestic prices and to protect the foreign commerce against the adverse effect of depreciated foreign currencies, it is necessary to fix the weight of the gold dollar at 15 $\frac{5}{21}$ grains nine-tenths fine,

NOW, THEREFORE, be it known that I, FRANKLIN D. ROOSEVELT, President of the United States, by virtue of the authority vested in me by Section 43, Title III of said Act of May 12, 1933, as amended, and by virtue of all other authority vested in me, do hereby proclaim, order, direct, declare and fix the weight of the gold dollar to be 15 $\frac{5}{21}$ grains nine-tenths fine, from and after the date and hour of this proclamation. The weight of the silver dollar is not altered or affected in any manner by reason of this proclamation.

This proclamation shall remain in force and effect until and unless repealed or modified by act of Congress or by subsequent proclamation;

and notice is hereby given that I reserve the right by virtue of the authority vested in me to alter or modify this proclamation as the interest of the United States may seem to require.

IN WITNESS WHEREOF I have hereunto set my hand and have caused the seal of the United States to be affixed.

DONE in the City of Washington at 3:10 o'clock in the afternoon, Eastern Standard Time, this 31 day of January, in the year of our

Lord one thousand nine hundred and thirty-four, and of the
[seal] Independence of the United States the one hundred and fifty-eighth.

FRANKLIN D. ROOSEVELT

By the President:

Cordell Hull, *Secretary of State*.

(No. 2072)

281. SILVER PURCHASE ACT OF 1934

At the London Monetary and Economic Conference of July, 1933, sixty-six governments agreed to attempt to stabilize the world price of silver. Under this arrangement, the United States agreed to absorb all domestically mined silver and to purchase, in the world market, somewhat in excess of 24,000,000 ounces annually for four years. On December 31, 1933, President Roosevelt instructed the Treasury to begin the purchase of domestic silver at 50 cents an ounce,¹ which was considerably in excess of the current market price. This was increased to 77 cents an ounce on April 24, 1935, and the Government's silver policies were now costing approximately \$50,000,000 a year. In order to secure to the Government the increment from the increased price of silver, the President, by proclamation, nationalized the nation's silver stocks on August 9, 1934. In 1938, the price paid by the Treasury for domestically mined silver was reduced to 64 cents an ounce. Throughout the period 40 to 43 cents an ounce—reduced to 38-1/2 cents in June 1939—was paid for foreign silver.

Silver purchases to maintain the prescribed ratio of silver to gold were never seriously undertaken; it was, in fact, a manifest impossibility. When the Silver Purchase Act was passed the gold reserve stood at \$7,850,000,000. but, by 1939, this had mounted to more than \$15,-

¹ The authorization for this action is to be found in Title III of the Agricultural Adjustment Act of 1933 permitting the President to fix, by proclamation, the weight of the silver dollar and to begin the unlimited coinage of silver.

000,000,000. and the Treasury was still short 1,200,000,000 ounces of silver of reaching the ratio to gold which the law prescribed.

The Silver Purchase Act was approved June 19, 1934.

Statutes at Large of the United States, Vol. 48, Public Laws, pp. 1178-1181.

AN ACT

To authorize the Secretary of the Treasury to purchase silver, issue silver certificates, and for other purposes.

BE it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the short title of this Act shall be the "Silver Purchase Act of 1934."

SEC. 2. It is hereby declared to be the policy of the United States that the proportion of silver to gold in the monetary stocks of the United States should be increased, with the ultimate objective of having and maintaining, one fourth of the monetary value of such stocks in silver.

SEC. 3. Whenever and so long as the proportion of silver in the stocks of gold and silver of the United States is less than one-fourth of the monetary value of such stocks, the Secretary of the Treasury is authorized and directed to purchase silver, at home or abroad, for present or future delivery with any direct obligations, coin, or currency of the United States, authorized by law, or with any funds in the Treasury not otherwise appropriated, at such rates, at such times, and upon such terms and conditions as he may deem reasonable and most advantageous to the public interest: *Provided*, That no purchase of silver shall be made hereunder at a price in excess of the monetary value thereof: *And provided further*, That no purchases of silver situated in the continental United States on May 1, 1934, shall be made hereunder at a price in excess of 50 cents a fine ounce.

SEC. 4. Whenever and so long as the market price of silver exceeds its monetary value or the monetary value of the stocks of silver is greater than 25 per centum of the monetary value of the stocks of gold and silver, the Secretary of the Treasury may, with the approval of the President and subject to the provisions of Section 5, sell any silver acquired under the authority of this Act, at home or abroad, for present or future delivery, at such rates, at such times, and upon such terms and conditions as he may deem reasonable and most advantageous to the public interest.

SEC. 5. The Secretary of the Treasury is authorized and directed to issue silver certificates in such denominations as he may from time to

time prescribe in a face amount not less than the cost of all silver purchased under the authority of Section 3, and such certificates shall be placed in actual circulation. There shall be maintained in the Treasury as security for all silver certificates heretofore or hereafter issued and at the time outstanding an amount of silver in bullion and standard silver dollars of a monetary value equal to the face amount of such silver certificates. All silver certificates heretofore or hereafter issued shall be legal tender for all debts, public and private, public charges, taxes, duties, and dues, and shall be redeemable on demand at the Treasury of the United States in standard silver dollars; and the Secretary of the Treasury is authorized to coin standard silver dollars for such redemption.

SEC. 6. Whenever in his judgment such action is necessary to effectuate the policy of this Act, the Secretary of the Treasury is authorized, with the approval of the President, to investigate, regulate, or prohibit, by means of licenses or otherwise, the acquisition, importation, exportation, or transportation of silver and of contracts and other arrangements made with respect thereto; and to require the filing of reports deemed by him reasonably necessary in connection therewith. Whoever willfully violates the provisions of any license, order, rule, or regulation issued pursuant to the authorization contained in this section shall, upon conviction, be fined not more than \$10,000 or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SEC. 7. Whenever in the judgment of the President such action is necessary to effectuate the policy of this Act, he may by Executive order require the delivery to the United States mints of any or all silver by whomever owned or possessed. The silver so delivered shall be coined into standard silver dollars or otherwise added to the monetary stocks of the United States as the President may determine; and there shall be returned therefor in standard silver dollars, or any other coin or currency of the United States, the monetary value of the silver so delivered less such deductions for seigniorage, brassage, coinage, and other mint charges as the Secretary of the Treasury with the approval of the President shall have determined. . . . Any silver withheld in violation of any Executive order issued under this section or of any regulations issued pursuant thereto shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law; and, in addition, any person failing to comply with the provisions of any such Executive order or regulation

shall be subject to a penalty equal to twice the monetary value of the silver in respect of which such failure occurred.

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282. NATIONAL LABOR RELATIONS BOARD

The invalidation of the National Industrial Recovery Act by the Supreme Court necessitated new legislation if the principles involved in Section 7 (a) were to be reestablished in American law. Congress, accordingly, passed the National Labor Relations Act. The National Labor Relations Board was the agency created to administer the law. The value of a permanent labor board had been amply demonstrated by the experiences of the National Labor Board, which had been created to settle and adjust controversies between industry and labor arising out of the interpretation of the N.R.A. codes and the President's Reemployment Agreement. (See No. 277.)

President Roosevelt, on approving the National Labor Relations Act, said, in part: "A better relationship between labor and management is the high purpose of this act. By assuring the employees the right of collective bargaining it fosters the development of the employment contract on a sound and equitable basis. By providing an orderly procedure for determining who is entitled to represent the employees, it aims to remove one of the chief causes of wasteful economic strife. By preventing practices which tend to destroy the independence of labor it seeks, for every worker within its scope, that freedom of choice and action which is justly his."

The National Labor Relations Act was approved July 5, 1935. Labor Information Bulletin, December, 1935, pp. 1-2.

THE NATIONAL LABOR RELATIONS BOARD

By

*J. Warren Madden, Chairman
National Labor Relations Board*

STRIKES are evidence of imperfect industrial relationships. No one wants them. The employer loses through interruption of his production and the employee suffers severe want and hardship. Some strikes are unavoidable, but most strikes can be prevented by a careful analysis of the causes and through an amicable solution of the difficulties.

The National Labor Relations Act is an attempt on a national scale to

lessen strikes through getting at their causes. It does not forbid employees to strike, nor does it prohibit employers from closing down their plants when they choose to do so. In adopting the National Labor Relations Act the Seventy-fourth Congress merely recognized that strikes which result from a denial of collective bargaining and of the self-organization of workers necessary to collective bargaining hamper the flow of interstate commerce and are detrimental to the country's welfare. It therefore established certain principles for employer-employee relations in industries engaged in interstate commerce, and authorized the National Labor Relations Board to carry out these principles. The Board has no other guide than the expressed intention of Congress.

ORGANIZATION OF THE NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board consists of three members appointed by the President. . . The first task of the Board was to draw up administrative rules and to establish the machinery necessary to carry out the mandates of the law.

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Each office [the Board established regional offices in 21 cities] is in charge of a director empowered to act as the Board's agent. He is authorized to receive charges of unfair labor practices and to issue complaints against employers in the region which his office serves. He also has the duty of certifying the proper employee representation in appropriate bargaining units, or of holding secret elections to determine such representation.

Cases of complaints against unfair labor practices are handled in identically the same manner in all the regional offices, as they are bound by the same rules issued by the National Board in Washington. There is also a close personal relationship between the Board and its field agents. . .

To date, action has been taken by the regional boards in some 40 cases, including two bus lines operating across State borders, a shipping company, an interstate ferry company, two telegraph and radio companies, and a number of manufacturing plants where the sources of materials used in production come substantially from other States, to be worked up into finished articles destined for wide distribution in interstate commerce. The Board itself, in order to expedite procedure and establish precedents, has taken jurisdiction in several of these cases, and has conducted the hearings in the cities where they arose. In the future it will

leave the investigation and conduct of original hearings largely to its regional offices with instructions not to claim jurisdiction in cases of unfair labor practices unless they substantially affect interstate commerce.

PROCEDURE IN HANDLING COMPLAINTS

A case begins with the filing of a charge by a labor union, or by employees who claim that their rights under the National Labor Relations Act have been violated. The first step may be an oral complaint to the regional director, followed by a charge in writing which sets forth the facts concerning the particular unfair labor practices of the employer. It is of course understood that the regional director cannot consider any charges unless the employer's business affects interstate commerce. Also, complaints must be limited to those specified in the Act, including unfair interference with the right to organize, discrimination against labor organization, discrimination because of union activity, discrimination against an employee because he filed charges or gave testimony under the act, or a refusal to bargain collectively with the representatives chosen in accordance with the provisions of the act.

It is the duty of the regional director to investigate the facts stated in the charge. If he finds them unwarranted he will dismiss the complaint. If they are well founded, he will issue a complaint and serve notice on the employer and complainant to appear at a hearing before a regional examiner designated by the National Board to hear the case.

The examiner is not bound by the rules of evidence which usually apply to law courts. His purpose is to arrive at the truth through the admission of all facts in the case. The witnesses called upon are required to answer questions put to them by the attorney for the union, by the attorney for the employer, and by the representatives of the regional board. Facts and not personal opinions are all that the witnesses are asked to give. Workers called as witnesses are protected against discrimination by the National Labor Relations Act.

After the hearing the examiner makes a report to the Board. If he finds that the facts do not show proof of an unfair labor practice, he will recommend that the case be dismissed. If he finds that the charges are justified he will recommend to the employer the proper means of righting the wrong. In several cases already heard by the examiners the employers have accepted the suggestions of the examiner and have reached a satisfactory settlement with the workers.

Either the union or the employer can object to the decision of the examiner and request a review of the case by the National Board. If the decision of the examiner upholds the complainant and is approved by the

Board, the Board will issue a "cease and desist" order which will require the employer to end the unfair labor practices. However, in order to obtain compulsory enforcement of its order, the Board may ask for a review of its order in the Circuit Court of Appeals. The employer also may ask the Court to release him from the Board's order. Should the Circuit Court of Appeals decide that the Board's order is a just one, the employer's further refusal to obey it becomes contempt of court. Here again, however, the employer's rights are protected by the opportunity to submit the case to our highest court, the Supreme Court of the United States.

283. SOCIAL SECURITY ACT

Social Security Board, A Brief Explanation of the Social Security Act (Information Service, Circular No. 1), April, 1936, Washington, 1936.

EXPLANATION OF THE PROVISIONS OF THE SOCIAL SECURITY ACT

THE SOCIAL SECURITY ACT, approved on August 14, 1935, represents a major advance in the attainment of economic security for the individual and for his family. The President outlined the entire program in his messages of June 8, 1934, and January 4, 1935. He stated that: "Among our objectives I place the security of the men, women, and children of the Nation first." He further said that security for the individual and for the family concerns itself with three factors: (1) Decent homes to live in; (2) development of the natural resources of the country so as to afford the fullest opportunity to engage in productive work; and (3) safeguards against the major misfortunes of life. The Social Security Act is concerned with the third of these factors — "safeguards against misfortunes which cannot be wholly eliminated in this man-made world of ours."

The act was devised to provide some safeguard against the insecurity of modern life through coöperative action by the Federal and State governments, thus making possible fullest consideration of the local economic and social problems existing within States while maintaining a national unity of program and purpose.

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UNEMPLOYMENT COMPENSATION

The Social Security Act does not establish any unemployment compensation systems. The States are invited to enact laws for the compensation of their unemployed. The Federal Government does not require or seek to force them to enact laws of any particular type. Their freedom to pass those laws best suited to their local conditions and problems is protected.

The provisions of the Social Security Act relating to unemployment compensation are very simple. A pay-roll tax amounting to 1 percent of pay-roll in 1936, 2 percent in 1937, and 3 percent in 1938 and thereafter, is levied on all employers of eight or more persons for 20 weeks or more. Agricultural labor, domestic service in a private home, certain maritime employment, service in the employ of the United States Government or State governments, or their instrumentalities or political subdivisions, service performed for certain very close relatives, and for religious, charitable, scientific, literary, and educational institutions of a nonprofit nature are excepted from this tax. Each employer may credit against this tax, up to 90 percent thereof, his contributions to a State unemployment compensation fund established in accordance with a State unemployment compensation law which has been approved by the Social Security Board. The Federal tax will bring money into the General Treasury, for the general purposes of the Federal Government.

This means that a State which passes an unemployment compensation law will be able to withdraw nine-tenths of this pay-roll tax for its own unemployed, by collecting it as contributions under its own law, rather than letting the Federal Government collect it as a tax. . . . No unemployment compensation will be assured to the commercial or industrial worker until his State has an approved law.

OLD-AGE ASSISTANCE AND OLD-AGE BENEFITS

The Social Security Act sets up two systems for aiding the aged. One is designed to help the States to give immediate assistance to aged individuals on a basis of need; the other to provide annuities in the future to persons over the age of 65; based upon their wage experience. The two plans are complementary and may be described briefly as follows:

(1) *Old-Age Assistance (Immediate payment plan)*.—A State may submit to the Social Security Board for approval its plan for old-age assistance. The Board is directed to approve such plans as conform to certain requirements as to eligibility, such as age, residence, and citizen-

ship; and to requirements as to State operation and standards of administration, intended to assure proper and efficient State action by the enactment and administration of laws which may reasonably be expected to provide assistance to needy aged individuals without discrimination. After the plan is approved, the State receives from the Federal Government an amount equal to one-half the sum expended for old-age assistance by the State with respect to individuals 65 years or older who are not inmates of public institutions. The Federal Government matches on a 50-50 basis every dollar spent by the State for old-age assistance, but does not contribute more than \$15 per month for any individual. In addition the Federal Government pays for administrative expenses, an amount equal to 5 percent of the sum granted to the State.

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(2) *Old-Age Benefits (Annuity plan).*— Under this plan regular benefits are paid to qualified individuals as a matter of right out of an “old-age reserve account” set up in the Federal Treasury. A qualified individual is one who is at least 65 years of age, who received total wages with respect to employment after December 31, 1936, and before attaining 65 years of age, of not less than \$2000, and who has been employed in some 5 different calendar years after December 31, 1936, before attaining the age of 65 years.

The “wages” on which benefits are based do not include certain wages, for instance, wages received for agricultural labor; domestic service in a private home; casual labor; service on a vessel documented under the laws of the United States or any foreign country; service for Federal or State governments or their political subdivisions or instrumentalities; and service for nonprofit literary, religious, scientific, charitable, and educational organizations. Service in the employment of a carrier as defined in the Railroad Retirement Act of 1935 . . . is further excluded. That part of an individual’s remuneration in excess of \$3000 per year from each employer is not counted as such “wages.”

A qualified individual is entitled to benefits from the day he reaches 65, or on January 1, 1942, whichever is later, and ending at his death. . .

The minimum monthly benefit payment will be \$10, and the maximum \$85. . .

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Persons who leave included employment after having qualified as to number of days of employment and amount of wages received will become qualified individuals on attaining the age of 65. . .

Employees whose total wages or length of employment, as defined in the act, prior to their attaining the age of 65, are not sufficient to qualify them for benefits will be entitled to a lump-sum payment of $3\frac{1}{2}$ percent of their wages as defined in the act upon reaching that age. Receipt of a lump-sum payment or annuity under Federal old-age benefits will not disqualify a person from receiving aid under the State old-age assistance plans . . . if need for assistance can be established so as to qualify under the State law.

The act provides that the benefits received by any individual shall be reduced by the amount of 1 month's benefit for each calendar month in which the qualified individual receives wages for employment after reaching the age of 65.

The estates of individuals dying after attaining the age of 65 are entitled to $3\frac{1}{2}$ percent of the total wages paid to such individual with respect to employment (as defined in the act) subsequent to December 31, 1936, less the amount of old-age benefits actually paid to the individual during his life. Death payments of $3\frac{1}{2}$ percent of total wages (as defined) are made not only to the estates of qualified individuals, but to the estates of those who have earned some money in the included employments, but who have not worked long enough or earned enough to become "qualified."

SECURITY FOR CHILDREN

Aid to Dependent Children.— . . . a sufficient sum . . . [is annually provided] for making payments to States which have submitted, and had approved by the Board, State plans for aid to dependent children. Seventeen States had approved plans on March 31, 1936. The Federal Government pays to each State an amount equal to one-third of the sums expended under such an approved plan, but payment in excess of \$18 per month for the first child and \$12 for each additional child in the same family is not counted in determining Federal aid. A "dependent child" may be defined broadly as a child under the age of 16 who has been deprived of parental support through death, absence, or incapacity of a parent and who is living in a private home maintained by immediate relatives.

Maternal and Child Health Services.— A sum . . . [is annually] appropriated to the Children's Bureau of the United States Department of Labor for grants-in-aid to States for maternal and child health services, especially in rural areas and in areas suffering from severe economic distress. This entire appropriation will be used exclusively for carrying out State plans for furthering and strengthening State and local health

services to mothers and children and extending maternal and child health services in rural areas.

Services to Crippled Children.—A sum . . . [is annually made available] for grants-in-aid to States for medical care and other services for crippled children under the administration of the Children's Bureau. The amount of \$20,000 is to be allotted to each State, with the balance allocated to the States on the basis of need, taking into consideration the number of crippled children in need of such services and the cost of furnishing such services. Within the limits of these allotments, the Federal Government will pay to each State which has an approved plan for services to crippled children an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended for carrying out such plan.

Child-Welfare Services.—Under the administration of the Children's Bureau an appropriation . . . [is annually] made for grants-in-aid to States toward welfare services for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent. This amount is to be allotted by the Secretary of Labor to the States primarily on the basis of rural population. The amount so allotted shall be expended for payment of part of the cost of district, county, or other local child-welfare services in areas predominantly rural, and for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need.

AID TO THE BLIND

The sum . . . [is annually] appropriated . . . for the purpose of enabling each State to furnish financial assistance to needy individuals who are blind. This sum is made available for making payments to States which have submitted and had approved by the Social Security Board State plans for aid to the blind. . . The Federal Government grants an amount equal to one-half the total sum expended under the State plan with respect to each individual who is blind and is not an inmate of a public institution. This Federal aid is limited to \$15 per month plus an additional 5 percent to the State for administrative purposes.

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EXTENSION OF PUBLIC HEALTH SERVICES

A sum . . . [is annually to be] appropriated for aid to State and local health services. . . Allotments to the States are to be made by the

Surgeon General of the Public Health Service with the approval of the Secretary of the Treasury on the basis of population, the special health problems, and the financial needs of the respective States. This money is to be used by the States for extending State health services and for assistance to counties and other governmental units in maintaining adequate public-health programs.

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VOCATIONAL REHABILITATION

In order to provide for the extending and strengthening of programs of vocational rehabilitation of the physically disabled, the Social Security Act also authorizes [an appropriation annually] to be distributed as grants-in-aid to the States for vocational rehabilitation purposes. . . The existing Federal Vocational Rehabilitation Act is administered by the Office of Education in the Department of the Interior.

SOCIAL SECURITY BOARD

Title VII of the act establishes a Social Security Board composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The term of office of these members will be six years. Not more than two of the members of the Board shall be of the same political party and the chairman is to be designated by the President.

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Those provisions of the act dealing with grants-in-aid to States for unemployment compensation, old-age assistance, aid to the blind, and aid to dependent children, and old-age benefits, are to be administered by and under the supervision of the Board. In addition, the act places upon the Board the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects.

TAXES

The Social Security Act imposes three separate and distinct taxes, the proceeds of which are paid into the General Treasury of the United States.

(1) Title IX imposes a tax on all employers who have had 8 or more individuals in their employ for at least some portion of the day, on each of some 20 days during the taxable year, each day being in a different calendar week. The tax is based upon the employer's pay roll [with certain exceptions]. . .

Employers subject to the act are required to pay the following percentages of total wages paid by them with respect to employment not excepted by the provisions of the act:

- (1) For the calendar year 1936, 1 percent.
- (2) For the calendar year 1937, 2 percent.
- (3) For each calendar year thereafter, 3 percent.

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(2) Title VIII imposes two taxes — an income tax on employees and an excise tax on employers.

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The tax on employers applies to all employers (as distinguished from the tax under title IX which applies to employers of 8 or more) and is measured by the wages paid by them after December 31, 1936, with respect to employment that is subject to the income tax on employees mentioned above.

The act provides that the tax on employees is to be deducted by the employers from the wages when paid, and is to be turned over to the United States by the employer under rules and regulations of the Bureau of Internal Revenue. The tax is not to be allowed as a deduction in computing net income and the income tax of the employee.

The rate of tax on the wages of the employees not exempted from the act and on the pay rolls of the employers with respect to employment not exempted from the act are as follows (excluding in both cases the wages of an individual in excess of \$3000 from a single employer with respect to covered employment during a taxable year):

<i>Calendar years</i>	<i>Taxes</i>
1937-38-39	1 percent
1940-41-42	1½
1943-44-45	2
1946-47-48	2½
1949-thereafter	3

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284. ROOSEVELT'S QUARANTINING WAR SPEECH

In July, 1937, Japan began her undeclared war on China with hostilities at Shanghai. The United States Government at once notified Japan that she would be held accountable for the lives and property of American nationals. The United States, further, refused to withdraw its troops and warships from the trouble-zone, protested the bombing of the civilian population, and denounced Japan's violation of the Kellogg-Briand Pact and the Nine Power Treaty. (The Nine Power Treaty, of which both the United States and Japan were signatories, had guaranteed the territorial integrity of China and the sanctity of the "open door." In the autumn of 1939, the State Department formally notified Japan that the favorable commercial treaty in operation between the two countries would be abrogated by the United States as of January, 1940—an obvious retaliatory measure.) While the American people sympathized with China, there was very little support for the President's position. Even the destruction of the U. S. Gunboat Panay by Japanese bombs brought little excitement. Public opinion, generally, favored the withdrawal of American citizens and military and naval forces from China. In Congress, the President found little support for his foreign policies.

At the moment that Roosevelt was assuming his strong stand, the House was debating the Ludlow Resolution, which was defeated by the close vote of 209 to 188. (This resolution proposed the submission of an amendment to the states requiring a referendum before participation in a foreign war.) Secretary Hull announced that the United States was acting in China after consultation with other powers, but that this action was "parallel" and not "joint"; and that the Government was moved not only by a desire to protect investments and nationals but that "there is a broader and much more fundamental interest—which is that orderly processes in international relations be maintained." The President's critics alleged that he was moved more by a desire to distract the public attention from the internal situation. They further intimated that the protagonists of "collective security" had the President's ear and that "collective security" meant the support of Great Britain and France as against Germany, Italy, and Japan, and the entrance of the United States into the game of international power politics.

Vital Speeches of the Day, Vol. IV, pp. 2-4 (15 Oct. 1937).

QUARANTINING WAR

Speech of President Franklin D. Roosevelt, Chicago, October 5, 1937.

I AM glad to come once again to Chicago and especially to have the opportunity of taking part in the dedication of this important project of civic betterment.

On my trip across the continent and back I have been shown many evidences of the result of commonsense coöperation between municipalities and the Federal Government, and I have been greeted by tens of thousands of Americans who have told me in every look and word that their material and spiritual well-being has made great strides forward in the past few years.

And yet, as I have seen with my own eyes the prosperous farms, the thriving factories and the busy railroads—as I have seen the happiness and security and peace which covers our wide land, almost inevitably I have been compelled to contrast our peace with very different scenes being enacted in other parts of the world.

It is because the people of the United States under modern conditions must, for the sake of their own future, give thought to the rest of the world, that I, as the responsible executive head of the nation, have chosen this great inland city and this gala occasion to speak to you on a subject of definite national importance.

The political situation in the world, which of late has been growing progressively worse, is such as to cause grave concern and anxiety to all the peoples and nations who wish to live in peace and amity with their neighbors.

Some nine years ago the hopes of mankind for a continuing era of international peace were raised to great heights when more than sixty nations solemnly pledged themselves not to resort to arms in furtherance of their national aims and policies. The high aspirations expressed in the Briand-Kellogg Peace Pact and the hopes for peace thus raised have of late given way to a haunting fear of calamity.

The present reign of terror and international lawlessness began a few years ago. It began through unjustified interference in the internal affairs of other nations or the invasion of alien territory in violation of treaties, and has now reached a stage where the very foundations of civilization are seriously threatened.

The landmarks and traditions which have marked the progress of civilization toward a condition of law, order and justice are being wiped away.

Without a declaration of war and without warning or justification of

any kind, civilians, including women and children, are being ruthlessly murdered with bombs from the air.

In times of so-called peace, ships are being attacked and sunk by submarines without cause or notice. Nations are fomenting and taking sides in civil warfare in nations that have never done them any harm. Nations claiming freedom for themselves deny it to others.

Innocent peoples and nations are being cruelly sacrificed to a greed for power and supremacy which is devoid of all sense of justice and humane consideration.

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The peace-loving nations must make a concerted effort in opposition to those violations of treaties and those ignorings of humane instincts which today are creating a state of international anarchy and instability from which there is no escape through mere isolation or neutrality.

Those who cherish their freedom and recognize and respect the equal right of their neighbors to be free and live in peace must work together for the triumph of law and moral principles in order that peace, justice and confidence may prevail in the world.

There must be a return to a belief in the pledged word, in the value of a signed treaty. There must be recognition of the fact that national morality is as vital as private morality.

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There is a solidarity and interdependence about the modern world, both technically and morally, which makes it impossible for any nation completely to isolate itself from economic and political upheavals in the rest of the world, especially when such upheavals appear to be spreading and not declining.

There can be no stability or peace either within nations or between nations except under laws and moral standards adhered to by all. International anarchy destroys every foundation for peace. It jeopardizes either the immediate or the future security of every nation, large or small.

It is, therefore, a matter of vital interest and concern to the people of the United States that the sanctity of international treaties and the maintenance of international morality be restored.

The overwhelming majority of the peoples and nations of the world today want to live in peace.

They seek the removal of barriers against trade.

They want to exert themselves in industry, in agriculture and in business, that they may increase their wealth through the production of

wealth-producing goods, rather than striving to produce military planes and bombs and machine guns and cannon for the destruction of human lives and useful property.

In those nations of the world which seem to be piling armament on armament for purposes of aggression, and those other nations which fear acts of aggression against them and their security, a very high proportion of the national income is being spent directly for armaments. It runs from 30 to as high as 50 per cent.

The proportion that we in the United States spend is far less — 11 or 12 per cent.

How happy we are that the circumstances of the moment permit us to put our money into bridges and boulevards, dams and reforestation, the conservation of our soil and many other kinds of useful works, rather than into huge standing armies and vast supplies of implements of war.

I am compelled and you are compelled, nevertheless, to look ahead. The peace, the freedom and the security of 90 per cent of the population of the world is being jeopardized by the remaining 10 per cent who are threatening a breakdown of all international order and law.

Surely the 90 per cent who want to live in peace under law and in accordance with moral standards that have received almost universal acceptance through the centuries, can and must find some way to make their will prevail.

The situation is definitely of universal concern. The questions involved relate not merely to violations of specific provisions of particular treaties; they are questions of war and of peace, of international law, and especially of principles of humanity. It is true that they involve definite violations of agreements, and especially of the Covenant of the League of Nations, the Briand-Kellogg Pact and the Nine-Power Treaty. But they also involve problems of world economy, world security and world humanity.

It is true that the moral consciousness of the world must recognize the importance of removing injustices and well-founded grievances; but at the same time it must be aroused to the cardinal necessity of honoring sanctity of treaties, of respecting the rights and liberties of others and of putting an end to acts of international aggression.

It seems to be unfortunately true that the epidemic of world lawlessness is spreading.

When an epidemic of physical disease starts to spread, the community approves and joins in a quarantine of the patients in order to protect the health of the community against the spread of the disease.

It is my determination to pursue a policy of peace and to adopt every practicable measure to avoid involvement in war.

It ought to be inconceivable that in this modern era, and in the face of experience, any nation could be so foolish and ruthless as to run the risk of plunging the whole world into war by invading and violating, in contravention of solemn treaties, the territory of other nations that have done them no real harm and which are too weak to protect themselves adequately. Yet the peace of the world and the welfare and security of every nation is today being threatened by that very thing.

.....

War is a contagion, whether it be declared or undeclared. It can engulf states and peoples remote from the original scene of hostilities. We are determined to keep out of war, yet we cannot insure ourselves against the disastrous effects of war and the dangers of involvement. We are adopting such measures as will minimize our risk of involvement, but we cannot have complete protection in a world of disorder in which confidence and security have broken down.

If civilization is to survive, the principles of the Prince of Peace must be restored. Shattered trust between nations must be revived.

Most important of all, the will for peace on the part of peace-loving nations must express itself to the end that nations that may be tempted to violate their agreements and the rights of others will desist from such a cause. There must be positive endeavors to preserve peace.

America hates war. America hopes for peace. Therefore, America actively engages in the search for peace.

285. FAIR LABOR STANDARDS ACT OF 1938

The Fair Labor Standards Act of 1938, popularly known as the "Wages and Hours Law," was passed by Congress on June 13, 1938, and signed by President Roosevelt on June 25. This statute was expected to accomplish what had been attempted in the labor provisions of the National Industrial Recovery Act, which had been declared unconstitutional by the United States Supreme Court in 1935.

Labor Information Bulletin, July, 1938.

WORKERS COVERED BY THE FAIR LABOR STANDARDS ACT

I. WHAT GROUPS OF WORKERS ARE COVERED BY THE LAW?

Workers employed in industries engaged in interstate commerce or in

the manufacture of goods shipped in interstate commerce are covered by the Fair Labor Standards Act of 1938.

2. WHAT EMPLOYEES ARE EXEMPT FROM THE WAGE AND HOUR PROVISIONS OF THE LAW?

The wage and hour provisions of the law do not apply to—

(a) workers employed in a bona fide executive, administrative, or professional capacity, workers engaged as outside salesmen, and employees in retail and service establishments, the greater part of whose business is within the State.

(b) workers employed as seamen, employees engaged in the transportation of persons and mail by air, employees of suburban or inter-urban electric street railways, and employees of local trolley or motorbus carriers.

(c) agricultural workers and those engaged in fishing, including the canning, packing, marketing, and distributing of fish and other sea foods.

(d) workers employed in connection with the publication of weekly or semiweekly newspapers with a circulation of less than 3,000, the major part of which is within the county where it is printed and published.

(e) workers engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in a raw or natural state, or canning any agricultural commodity for marketing, or in making cheese or butter if employed within the area of production of the raw materials.

PROVISIONS FOR MAXIMUM HOURS

3. WHAT ARE THE MAXIMUM-HOUR PROVISIONS OF THE LAW?

The law provides a maximum workweek of 44 hours during the first year of its operation, 42 hours during the second year, and 40 hours after the law has been in effect 2 years.

4. IS OVERTIME WORK PERMITTED?

Yes, but workers are entitled to receive compensation at the rate of not less than one and one-half times their regular rate for all hours in excess of the maximum permitted by law.

5. ARE ANY INDUSTRIES EXEMPT FROM PAYING OVERTIME FOR HOURS OF WORK IN EXCESS OF THE 44, 42, AND 40 MAXIMUMS?

Yes, the law makes the following specific exemptions:

(a) An employer and the representatives of his workers who are certified as bona fide by the National Labor Relations Board may agree to arrange the working schedule of the plant without regard to the maximum-hour and overtime provisions of the law, provided that no

worker in the plant shall be employed for more than a total of 1,000 hours in any period of 26 consecutive weeks or 2,000 hours in any period of 52 consecutive weeks. However, work in excess of 12 hours a day and 56 hours a week must be compensated at the rate of not less than time and one-half.

(b) In industries designated by the Administrator as seasonal, workers may be employed up to 12 hours a day and 56 hours a week for a period of not more than 12 weeks in any calendar year. In these industries also work in excess of 12 hours a day and 56 hours a week must be compensated at the rate of not less than time and one-half.

(c) Employers engaged in the "first processing" of milk, whey, skimmed milk, or cream into dairy products, in the ginning and compressing of cotton, in the processing of cottonseed, and in the processing of sugar beets, sugar cane, or maple sap into raw sugar or into syrup, are exempt from the maximum-hour provisions.

(d) Railway and motorbus and truck carriers regulated by the Interstate Commerce Commission are also exempt.

(e) Employers engaged in the first processing of, or in canning, perishable fresh fruits or perishable or seasonal fresh vegetables, or in the first processing within the area of production of any agricultural or horticultural commodity during seasonal operations, and employers engaged in handling, slaughtering, or dressing poultry or livestock are exempt from the maximum-hour provisions of the law for a period of not more than 14 weeks during a calendar year.

PROVISIONS FOR MINIMUM WAGES

6. WHAT ARE THE MINIMUM WAGES PROVIDED BY THE LAW?

After October 24, 1938, no employer subject to the law will be permitted to pay an hourly wage rate of less than 25 cents or less than the rate fixed by order of the Administrator, whichever is the higher.

After October 24, 1939, no employer subject to the law will be permitted to pay an hourly wage rate of less than 30 cents or less than the rate fixed by order of the Administrator, whichever is the higher.

After October 24, 1945, . . . no employer covered by the law will be permitted to pay an hourly wage rate of less than 40 cents unless it can be shown by a preponderance of evidence that such rate would substantially curtail employment in the industry concerned.

7. CAN AN ORDER OF THE ADMINISTRATOR ESTABLISH A MINIMUM WAGE OF MORE THAN 40 CENTS?

No, the Administrator cannot order a minimum wage of more than 40 cents an hour.

8. MUST WORKERS IN ALL INDUSTRIES WAIT 7 YEARS FOR THE HIGHEST MINIMUM HOURLY WAGE RATE?

No, the Administrator is required to establish as quickly as feasible the highest minimum wage possible for each industry.

9. WHAT PROCEDURE MUST BE FOLLOWED TO ESTABLISH THE HIGHEST MINIMUM WAGE FOR AN INDUSTRY?

The Administrator must appoint for each industry an industry committee consisting of an equal number of representatives of employers, workers, and the public. After careful study of the industry and its problems, with due regard for the economic and competitive conditions in the industry, the committee must recommend to the Administrator the highest minimum wage for the industry possible without substantially curtailing employment within the industry.

10. CAN AN INDUSTRY COMMITTEE RECOMMEND DIFFERENT MINIMUM WAGE RATES WITHIN AN INDUSTRY?

Yes, the industry committee may recommend reasonable classifications within an industry and recommend separate minimum wage rates which must be the highest for each classification without substantially curtailing employment in that classification and without giving a competitive advantage to any group in the industry. No minimum wage rates can be fixed solely on a regional basis or on the basis of age or sex of employees. The industry committees and the Administrator are required to consider among other relevant factors the following:

(a) Competitive conditions as affected by transportation, living, and production costs.

(b) The wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing.

(c) The wages paid for work of like or comparable character by employers who voluntarily maintain minimum-wage standards in the industry.

11. MUST THE ADMINISTRATOR ACCEPT THE RECOMMENDATIONS OF THE INDUSTRY COMMITTEE?

No, if after a public hearing and opportunity for interested parties to be heard the Administrator finds that the recommendations of the committee are not justified, he may reject them and either refer the question back to the same committee for further study or appoint a new industry committee.

12. CAN THE ADMINISTRATOR ESTABLISH A MINIMUM HOURLY WAGE RATE OTHER THAN THAT RECOMMENDED BY THE INDUSTRY COMMITTEE?

No, all wage orders must be based upon recommendations of an industry committee.

13. DO THE MINIMUM WAGE RATES APPLY TO APPRENTICES AND LEARNERS?

No, learners and apprentices, persons handicapped by age or physical defects, and messengers employed exclusively in delivering letters and messages are exempt from the application of the minimum-wage provisions of the law under conditions determined by the Administrator.

CHILD-LABOR PROVISIONS

14. HOW ARE CHILDREN PROTECTED BY THE FAIR LABOR STANDARDS ACT?

No producer, manufacturer, or dealer can ship or deliver for shipment in interstate commerce goods produced in establishments where oppressive child labor conditions have prevailed within 30 days prior to shipment.

15. WHAT IS OPPRESSIVE CHILD LABOR?

Oppressive child labor means the employment of children under 16 years of age and employment of minors of 16 to 18 years of age in occupations found and declared hazardous by the Chief of the Children's Bureau. An employer may protect himself from the illegal employment of minors by securing employment certificates issued in accordance with regulations established by the Children's Bureau of the U. S. Department of Labor.

16. WHAT OCCUPATIONS ARE SPECIFICALLY EXEMPT FROM THE CHILD-LABOR PROVISIONS?

Children under 16 employed in agriculture when not legally required to attend school, children employed as actors in motion picture or theatrical productions, and children working for their parents in any occupation other than manufacturing or mining are exempt.

17. ARE THERE OTHER REGULATIONS PERTAINING TO THE EMPLOYMENT OF CHILDREN?

Yes, children between 14 and 16 years of age may be granted permits for work in occupations other than manufacturing and mining if the Chief of the Children's Bureau finds that such employment will not interfere with their schooling or impair their health and well-being.

18. ARE CHILDREN EMPLOYED IN INTRA-STATE COMMERCE COVERED BY THE LAW?

No, children employed in local trades and services who constitute

nearly three-fourths of the total number of minors employed in the United States are not covered by the law.

ADMINISTRATION AND ENFORCEMENT

19. HOW WILL THE LAW BE ADMINISTERED?

The Fair Labor Standards Act creates within the Department of Labor a Division of Wages and Hours in charge of an Administrator appointed by the President of the United States subject to the approval of the Senate. The child labor provisions of the Act will be administered by the Children's Bureau of the U. S. Department of Labor.

20. WHAT PENALTIES ARE PROVIDED FOR VIOLATIONS OF THE LAW?

Employers who willfully violate the wage and hour provisions of the law or the wage orders fixed by the Administrator will be prosecuted in the courts and are subject to a fine of not more than \$10,000 or imprisonment for not more than 6 months or both, provided, however, that no person can be imprisoned for a first offense.

21. CAN WORKERS COLLECT THE DIFFERENCE BETWEEN THE LEGAL MINIMUM WAGE AND THE AMOUNT THEY HAVE ACTUALLY BEEN PAID BY EMPLOYERS VIOLATING THE LAW?

Yes, employees, individually or through representatives, can institute court proceedings to collect the differences in wages to which they are entitled due to violations of the law and an equal amount as damages. The employer is also liable for the costs involved in prosecuting the case.

22. ARE WORKERS PROTECTED IF THEY REPORT VIOLATIONS OF THE LAW OR TESTIFY AGAINST THEIR EMPLOYER?

Yes, employers are prohibited from willfully discharging or in any other manner discriminating against employees who serve on industry committees or who file complaints or testify on alleged violations of the law.

286. THE CONSTITUTION OF THE CONGRESS OF INDUSTRIAL ORGANIZATIONS (C.I.O.)

From the very beginning the American Federation of Labor (No. 262) has been an organization of craft unions and, as such, has organized only the skilled workers. Consequently, but two industrial unions, the miners and the needle workers, had been chartered up to 1934. The National Industrial Recovery Act (No. 278) set up what proved to be a price-fixing organism and its success depended upon its ability to prevent unfair competition and cutting of wages by unscrupulous producers.

Consequently, clauses 7 (a) and 7 (c) were written into the law legalizing the rights of labor to organize and bargain collectively. It seemed, however, that if all labor—skilled and unskilled alike—was to be organized by industries, only industrial unionism would avail. At the 1934 convention of the A. F. of L., resolutions calling for the chartering of industrial unions were unsympathetically received by the leaders. When, at the convention held in the following year, the executive committee announced that it had issued an industrial charter to the auto workers, but had excluded the skilled craft workers and would go no further, John L. Lewis and a number of others resigned and the Congress of Industrial Organizations was then organized at Washington, D. C., with seven charter unions—the most powerful of which were the United Mine Workers, the Amalgamated Clothing Workers, and the International Ladies' Garment Workers. By an agreement with the United States Steel Corporation and as a result of the "Little Steel Strike" of 1937, the steel industry was completely organized. This was followed by the unionization of the marine workers after long and bitter strife in many seaboard cities, notably San Francisco, New Orleans, and Boston.

New York Times, November 17, 1938.

CONSTITUTION OF THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

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ARTICLE I—NAME

THIS organization shall be known as the "Congress of Industrial Organizations." (C.I.O.)

ARTICLE II—OBJECTS

The objects of the organization are:

1. To bring about the effective organization of the working men and women of America regardless of race, creed, color or nationality and to unite them for common action into labor unions for their mutual aid and protection.

2. To extend the benefits of collective bargaining and to secure for the workers means to establish peaceful relations with their employers, by forming labor unions capable of dealing with modern aggregates of industry and finance.

3. To maintain determined adherence to obligations and responsibilities under collective bargaining and wage agreements.

4. To secure legislation safeguarding the economic security and social welfare of the workers of America, to protect and extend our democratic institutions and civil rights and liberties, and thus to perpetuate the cherished traditions of our democracy.

ARTICLE III—AFFILIATES

SECTION 1. The organization shall be composed of affiliated national and international unions, organizing committees, local industrial unions and industrial union councils.

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SEC. 3. . . The executive board shall issue rules governing the conduct, activities and affairs of local industrial unions. It shall be the duty of the executive board to combine local industrial unions into national or international unions or organizing committees. Any local, industrial union or group of local industrial unions may request the executive board to authorize such combination. . .

SEC. 4. . . Industrial union councils shall be organized upon a city, state or other regional basis . . . and shall be composed of the locals of national unions, international unions and organizing committees, and local industrial unions and local industrial union councils within the territorial limits of such council. . .

SEC. 5. The number of members in each national or international union, organizing committee and local industrial union . . . shall be the number of members for which per capita dues have been paid and the number of members for which exoneration has been granted. . .

SEC. 6. No affiliate shall be suspended or expelled, except upon a two-thirds vote at the convention. . .

ARTICLE IV—OFFICERS AND EXECUTIVE BOARD

SECTION 1. The officers shall consist of a president, two vice presidents and a secretary. Each officer shall be a member of an affiliate, shall be elected by a majority of the votes cast at each regular convention, [and] shall serve for the term of one year. . .

SEC. 2. In the event of a vacancy in the office of the president, vice president or secretary . . . the executive board by majority vote of all of its members shall determine the successor, who shall serve the unex-

pired term, or until a successor for the unexpired term is chosen at a special convention. . .

SEC. 3. The convention shall elect the executive board, which shall be composed of one member from each affiliated national and international union and organizing committee. Each such affiliate shall nominate one of its duly qualified officers for such membership to the executive board. The president, vice presidents and secretary shall be members of the executive board by virtue of their office.

SEC. 4. National headquarters shall be maintained at Washington, D. C.

ARTICLE V—DUTIES OF THE OFFICERS

PRESIDENT

SECTION. 1. The president shall preside over the convention and meetings of the executive board, exercise supervision of the affairs of the organization and function as the chief executive officer.

SEC. 2. The president shall interpret the meaning of the constitution, and his interpretation shall be subject to review by the executive board. Between sessions of the executive board he shall have full power to direct the affairs of the organization, and his acts shall be reported to the executive board for its approval.

SEC. 3. The president shall have authority, subject to the approval of the executive board, to appoint, direct, suspend or remove such organizers, representatives, agents and employees as he may deem necessary.

SEC. 4. The president shall make full reports of the administration of his office and of the affairs of the organization to the convention.

VICE PRESIDENTS

SEC. 5. The vice presidents shall assist the president in the performance of his duties.

SECRETARY

SEC. 6. The secretary shall cause to be recorded the proceedings of all conventions and all sessions of the executive board. He shall have charge of and preserve the books and records, files, documents and effects of the organization.

SEC. 7. The secretary shall perform such other duties as may be assigned to him by the president or the executive board.

ARTICLE VI—DUTIES OF THE EXECUTIVE BOARD

SECTION 1. The executive board shall enforce the constitution and carry out the instructions of the conventions and between conventions shall have the power to direct the affairs of the organization.

SEC. 2. The executive board may establish bureaus and departments and create such committees as may be necessary to the affairs of the organization.

SEC. 3. The executive board shall make the necessary arrangements for the maintenance of financial books and records, the receipt of all funds due the organization, the deposit, investment, holding and disbursement of such funds. The executive board may appoint such employees as may be necessary for these purposes. Real estate necessary to the affairs of the organization may be acquired, held, leased, mortgaged and disposed of by the executive board in the names of the officers and their successors in office, as trustees for the organization.

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SEC. 5. The executive board shall hold at least two regular meetings each year. Special meetings of the board shall be convened by the president when necessary or when requested by a majority of the members of the executive board. . . .

SEC. 6. Any dispute between two or more affiliates may be submitted to the executive board, which shall make such recommendations to the parties in dispute as it shall deem advisable and report to the convention.

SEC. 7. The executive board shall have the power to file charges and conduct hearings on such charges against any officer of the organization or other member of the executive board, on the ground that such person is guilty of malfeasance or maladministration, and to make a report to the convention recommending appropriate action. The executive board must serve such officer with a copy of the written charges a reasonable time before the hearing.

SEC. 8. The executive board shall have the power to investigate any situation involving an affiliate on the ground that such affiliate is conducting its affairs and activities contrary to the provisions of the constitution, and to make recommendations to the affiliate involved and to make a report to the convention.

SEC. 9. The executive board shall provide for the regular audit of the books and accounts of the organization.

SEC. 10. The executive board shall report its actions, decisions and management of the affairs of the organization to the convention.

SEC. 11. The members of the executive board shall be paid all legitimate expenses incurred in performing their duties as members of the executive board.

SEC. 12. The executive board shall have the power to adopt such rules, not inconsistent with the constitution, as it may deem necessary to carry out its duties and powers.

ARTICLE VII—CONVENTION

SECTION 1. The convention shall be the supreme authority of the organization and except as otherwise provided in the constitution, its decision shall be by a majority vote.

SEC. 2. A convention shall be held each year during the months of October or November at a time and place designated by the executive board. . . Special conventions may be called upon thirty days' notice by the executive board.

SEC. 3. The call for a special convention must include a statement of the particular subject or subjects to be considered at the convention and no other business shall be transacted at such convention. . .

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SEC. 5. Each national and international union and organizing committee and each local industrial union shall be entitled to one vote for each member. Each industrial union council shall be entitled to one vote.

SEC. 6. Each national or international union and organizing committee shall be entitled to the number of delegates indicated in the following scale:

Up to	5,000 membership	2 delegates
Over	5,000 membership	3 delegates
Over	10,000 membership	4 delegates
Over	25,000 membership	5 delegates
Over	50,000 membership	6 delegates
Over	75,000 membership	7 delegates
Over	100,000 membership	8 delegates
Over	150,000 membership	9 delegates
Over	200,000 membership	10 delegates

Each local industrial union and industrial union council shall be entitled to one delegate. . .

SEC. 7. Any affiliate which . . . is in arrears to the organization for per capita tax for two months or more shall not be entitled to representation to the convention.

.....

ARTICLE VIII—REVENUE

SECTION 1. Each national and international union and organizing committee shall pay on or before the 15th of each month, for the preceding month, a per capita tax of 5 cents per member per month.

SEC. 2. Each local industrial union shall pay on the 15th of each month, for the preceding month, a per capita tax of 50 cents per member per month. The local industrial unions shall also pay to the organization one-half of the initiation fee received by such local industrial union from its members. . .

SEC. 3. The executive board may exonerate any national and international union organizing committee and local industrial union from the payment of per capita tax due to the organization for any month for the members in good standing of such affiliate who are unemployed due to strike, lock-out or other involuntary cause.

SEC. 4. Each affiliate, upon the issuance of a certificate of affiliation, shall pay to the organization the sum of \$25.

SEC. 5. Each industrial union council shall pay to the organization an annual fee of \$25.

ARTICLE IX

The constitution, except as otherwise provided, may be amended by a majority vote at the convention.

ARTICLE X

This constitution shall become effective immediately upon its adoption at the first constitutional convention of the organization.

287. NEUTRALITY LAW OF 1939

With the impending Italo-Ethiopian conflict and the League of Nations' threat to impose sanctions on Italy, Congress passed the Neutrality Act of 1935. Under this act the President, finding a state of war to exist between two or more powers, was to proclaim such fact and it then became unlawful to export munitions of war to such states, either directly or indirectly. The act, also, erected the National Munitions Control Board to license the manufacture and import and export of arms, ammunition, and implements of war. The President, furthermore, in his

discretion, was empowered to forbid American citizens to travel on the ships of belligerents. On October 5, 1935, five days before the League condemned Italy as an aggressor and imposed economic sanctions on her—and even before the rupture of diplomatic relations between Italy and Ethiopia—President Roosevelt, by proclamation, laid an embargo on the shipment of munitions and forbade American citizens to travel on the ships of the belligerents.

Upon the outbreak of the Civil War in Spain, President Roosevelt in January, 1937, requested Congress to bring civil wars within the meaning of the existing neutrality legislation. This was promptly done, with but one negative vote in the House of Representatives, and an embargo was quickly placed on the shipment of war materials to both sides in the struggle despite the fact that the Loyalist Government was the legal government and had as such been recognized by the United States. This action paralleled that of Great Britain and France who had been instrumental in setting up the Non-Intervention Committee of European powers to prevent the flow of munitions to either belligerent—while Italy and Germany openly supplied the insurgents—which insured the ultimate defeat of the Madrid Government. On the other hand, while the President violently condemned Japan's attack on China in August, 1937, he, nevertheless did not recognize a state of war in the Far East and both belligerents continued to purchase war materials in the United States. Upon the declaration of war upon Germany by England and France in September, 1939, President Roosevelt promptly called Congress in special session and again requested that the current neutrality legislation be changed. This was done only after considerable debate, and the following law, the Neutrality Act of 1939, approved November 4, 1939, is the result.

Public Resolution No. 54, 76th Cong. 2nd Sess. (H. J. Res. 506).

NEUTRALITY LAW OF 1939. JOINT RESOLUTION

WHEREAS the United States, desiring to preserve its neutrality in wars between foreign states and desiring also to avoid involvement therein, voluntarily imposes upon its nationals by domestic legislation the restrictions set out in this joint resolution; and

Whereas by so doing the United States waives none of its own rights or privileges, or those of any of its nationals, under international law, and expressly reserves all the rights and privileges to which it and its nationals are entitled under the law of nations; and

Whereas the United States hereby expressly reserves the right to repeal, change or modify this joint resolution or any other domestic legislation in the interests of the peace, security or welfare of the United States and its people: Therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled,

.....

PROCLAMATION OF A STATE OF WAR BETWEEN FOREIGN STATES

SECTION 1. (a) That whenever the President, or the Congress by concurrent resolution, shall find that there exists a state of war between foreign states, and that it is necessary to promote the security or preserve the peace of the United States or to protect the lives of citizens of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

.....

COMMERCE WITH STATES ENGAGED IN ARMED CONFLICT

SEC. 2. (a) Whenever the President shall have issued a proclamation . . . it shall thereafter be unlawful for any American vessel to carry any passengers or any articles or materials to any state named in such proclamation.

.....

(c) Whenever the President shall have issued a proclamation . . . it shall thereafter be unlawful to export or transport, . . . from the United States to any state named in such proclamation, any articles or materials . . . until all right, title, and interest therein shall have been transferred to some foreign government, agency, institution, association, partnership, corporation, or national. Issuance of a bill of lading under which title to the articles or materials to be exported or transported passes to a foreign purchaser unconditionally upon the delivery of such articles or materials to a carrier, shall constitute a transfer of all right, title, and interest therein within the meaning of this subsection. . .

(d) Insurance written by underwriters on articles or materials included in shipments which are subject to restrictions under the provisions of this joint resolution, and on vessels carrying such shipments shall not be deemed an American interest therein, and no insurance policy issued on such articles or materials, or vessels, and no loss incurred thereunder or by the owners of such vessels, shall be made the basis of any claim put forward by the Government of the United States.

.....

(f) The provisions of subsection (a) of this section shall not apply to transportation by American vessels on or over lakes, rivers, and inland waters bordering on the United States, or to transportation by aircraft on or over lands bordering on the United States; and the provisions of subsection (c) of this section shall not apply (1) to such transportation of any articles or materials other than articles listed in a proclamation referred to in or issued under the authority of section 12 (i), or (2) to any other transportation on or over lands bordering on the United States of any articles or materials other than articles listed in a proclamation referred to in or issued under the authority of section 12 (i); . .

(g) The provisions of subsections (a) and (c) of this section shall not apply to transportation by American vessels (other than aircraft) of mail, passengers, or any articles or materials (except articles or materials listed in a proclamation referred to in or issued under the authority of section 12 (i)) (1) to any port in the Western Hemisphere south of thirty-five degrees north latitude, (2) to any port in the Western Hemisphere north of thirty-five degrees north latitude and west of sixty-six degrees west longitude, (3) to any port on the Pacific or Indian Oceans, including the China Sea, the Tasman Sea, the Bay of Bengal, and the Arabian Sea, and any other dependent waters of either of such oceans, seas, or bays, or (4) to any port on the Atlantic Ocean or its dependent waters south of thirty degrees north latitude. The exceptions contained in this subsection shall not apply to any such port which is included within a combat area as defined in section 3 which applies to such vessels.

.....

COMBAT AREAS

SEC. 3. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), and he shall thereafter find that the protection of citizens of the United States so requires, he shall, by

proclamation, define combat areas, and thereafter it shall be unlawful, except under such rules and regulations as may be prescribed, for any citizen of the United States or any American vessel to proceed into or through any such combat area. The combat areas so defined may be made to apply to surface vessels or aircraft, or both.

.....

TRAVEL ON VESSELS OF BELLIGERENT STATES

SEC. 5. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a) it shall thereafter be unlawful for any citizen of the United States to travel on any vessel of any state named in such proclamation, except in accordance with such rules and regulations as may be prescribed.

.....

ARMING OF AMERICAN MERCHANT VESSELS PROHIBITED

SEC. 6. Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful, until such proclamation is revoked, for any American vessel, engaged in commerce with any foreign state to be armed, except with small arms and ammunition therefor, . . . for the preservation of discipline aboard any such vessel.

FINANCIAL TRANSACTIONS

SEC. 7. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful for any person within the United States to purchase, sell, or exchange bonds, securities, or other obligations of the government of any state named in such proclamation, or of any political subdivision of any such state, or of any person for or on behalf of the government of any such state; . . . or to make any loan or extend any credit . . . to any such government, political subdivision, or person. The provisions of this subsection shall also apply to the sale by any person within the United State to any person in a state named in any such proclamation of any arti-

cles or materials listed in a proclamation referred to in or issued under the authority of section 12 (i).

.....

SOLICITATION AND COLLECTION OF FUNDS AND CONTRIBUTIONS

SEC. 8. (a) Whenever the President shall have issued a proclamation under the authority of section 1 (a), it shall thereafter be unlawful for any person within the United States to solicit or receive any contribution for or on behalf of the government of any state named in such proclamation or for or on behalf of any agent or instrumentality of any such state.

(b) Nothing in this section shall be construed to prohibit the solicitation or collection of funds and contributions to be used for medical aid and assistance, or for food and clothing to relieve human suffering, when such solicitation or collection of funds and contributions is made on behalf of and for use by any person or organization which is not acting for or on behalf of any such government, . . .

.....

AMERICAN REPUBLICS

SEC. 9. This joint resolution (except section 12) shall not apply to any American republic engaged in war against a non-American state or states, provided that the American republic is not coöperating with a non-American state or states in such war.

.....

SUBMARINES AND ARMED MERCHANT VESSELS

SEC. 11. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States by the submarines or armed merchant vessels of a foreign state will serve to maintain peace between the United States and foreign states, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make proclamation thereof,

it shall thereafter be unlawful for any such submarine or armed merchant vessel to enter a port or territorial waters of the United States or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. . .

NATIONAL MUNITIONS CONTROL BOARD

SEC. 12. (a) There is hereby established a National Munitions Control Board. . . The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. . . The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions. . .

(b) Every person who engages in the business of manufacturing, exporting, or importing any arms, ammunition, or implements of war listed in the proclamation referred to in or issued under the authority of subsection (i) . . . shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports. . .

(c) . . . Every person required to register under the provisions of this section shall pay a registration fee of \$100. Upon receipt of the required registration fee, the Secretary of State shall issue a registration certificate valid for five years. . .

(d) It shall be unlawful for any person to export, or attempt to export, from the United States to any other state, any arms, ammunition, or implements of war listed in a proclamation referred to in or issued under the authority of subsection (i) of this section, or to import, or attempt to import, to the United States from any other state, any of the arms, ammunition, or implements of war listed in any such proclamation, without first having submitted to the Secretary of State the name of the purchaser and the terms of sale and having obtained a license therefor.

.....

(i) The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section; but the proclamation Numbered 2237, of May 1, 1937 (50 Stat. 1834), defining the term "arms, ammunition, and implements

of war" shall, until it is revoked, have full force and effect as if issued under the authority of this subsection.¹

.....

UNLAWFUL USE OF THE AMERICAN FLAG

SEC. 14. (a) It shall be unlawful for any vessel belonging to or operating under the jurisdiction of any foreign state to use the flag of the United States thereon, or to make use of any distinctive signs or markings, indicating that the same is an American vessel.

(b) Any vessel violating the provisions of subsection (a) of this section shall be denied for a period of three months the right to enter the ports or territorial waters of the United States except in cases of *force majeure*.

.....

288. LATIN AMERICAN POLICY

Woodrow Wilson abandoned "dollar diplomacy" and imperialism in Latin America in name only and it remained for the administrations of Coolidge and Hoover to make the first real beginnings in winning the good will and confidence of the republics to the south. The impending change in American foreign policy was forecast at the Pan American Conference at Havana in 1928. Secretary of State Stimson, particularly, sought to win over the Latin American republics and, in 1930, published the Clark Memorandum (prepared in 1928) clarifying the American interpretation of the Monroe Doctrine and abandoning the so-called Roosevelt Corollary and the right of intervention, which bred the seed of suspicion throughout the hemisphere. Secretary Stimson said, in 1931, "The Monroe Doctrine was a declaration of the United States versus Europe—not of the United States versus Latin America." Secretary of State Hull continued to carry this policy forward and the abrogation of the Platt Amendment by executive agreement with Cuba evidenced the

¹ This list covered: rifles, carbines, machine guns, automatic rifles, and parts therefor; artillery of all kinds; ammunition for all of the foregoing; grenades, bombs, and mines, filled or unfilled; tanks, armored trains, and military armored vehicles; vessels of war of all kinds; aircraft suitable for military purposes and their component parts; flame throwers and the various types of gases suitable for military purposes.

sincerity of the United States Government. Although denying to itself the right of intervention, the United States does not forego the duty of protecting its nationals and their property. This problem has been complicated by recent expropriation of American-owned properties, especially in Mexico, by Latin American nations. The American position has been made doubly difficult by the European situation. For sometime previous to the outbreak of hostilities in Europe, the Roosevelt administration was engaged in combatting European, especially German and Italian, commercial and cultural penetration in South America, at the expense of the United States, through credits for dollar exchange by the Export-Import Bank of Washington, military and naval missions, and cultural and news broadcasts in Spanish by American commercial stations. The State Department has been especially intent upon preserving peace in the Western Hemisphere and fostering the solidarity of the American republics.

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THE 1930's—A DECADE OF PROGRESS IN INTER-AMERICAN RELATIONS

Address by Ellis O. Briggs¹

AN examination of inter-American relations in 1939 is of interest chiefly in the light it casts toward the future. . . In international affairs, . . . speculation is more than the satisfaction of curiosity, since a correct interpretation of recent history is essential to an understanding of today and tomorrow. . . The 1930's witnessed a very notable development—and a very notable improvement—in the relations of the 21 American republics among themselves. The 1930's witnessed the solution of a number of difficult specific problems and the development of others, solution of which has yet to be found. But of greater moment than these concrete credits and debits, the 1930's witnessed the beginning of an era of good feeling among the American peoples—an era in which we are today and whose duration, we profoundly hope, extends far beyond the present horizon. In these difficult times, in which so much that we cherish is either jeopardized or impaired, it is encouraging to consider how substantial have become the foundations of that era. We have quarried for

¹ Delivered before the Advertising Club of New York City, January 4, 1940. Mr. Briggs is Acting Chief of the Division of the American Republics, Department of State.

those foundations in the political field, in the economic field, and in the field of human relations.

In the political field the decade saw in the New World the acceptance of the doctrine of nonintervention: a renunciation, if you will, of an occasionally asserted right the allegation of which — not only by our Government but also from time to time by other countries of the hemisphere — had been largely responsible for deferring the establishment of a genuine solidarity of outlook and purpose among the American republics. Wholehearted acceptance of this principle by the United States was inherent in the announcement and definition of the “good neighbor” policy in 1933. It was ratified by all of the American republics before the end of that year through the adoption at the Montevideo Conference of a convention providing that no state has the right to intervene in the affairs of any other state. And the sincerity of our own ratification of this doctrine of juridical equality was demonstrated through our abrogation in 1934 of the Platt Amendment, under which for a generation we had maintained the right to intervene in the affairs of Cuba.²

War visited the American republics in the last decade, and six nations coöperated in the negotiation of a peace which delimited boundaries in the Chaco — boundaries in dispute for over a century but now accepted by Bolivia and Paraguay in satisfaction and in good faith. The achievement of that peace represented a practical example of conciliation and disinterested coöperation of which the New World is justly proud. It is an achievement which encourages us to believe that the remaining boundary problems, legacies of the inadequate geography of the colonial period now fortunately few in number, are susceptible of early and peaceful adjustment.³

The threat of war, elsewhere in the world, was of increasing preoccupation to this hemisphere as the decade advanced. In surveying the achievements of the American republics against the disquieting back drop of the present conflagration, I believe we are entitled to recognize with satisfaction that as early as 1936 the will to peace of the American republics devised practical machinery to make that will effective. The establishment at Buenos Aires of a procedure of consultation whereby, within 3 weeks of the outbreak of hostilities last September, the representatives of 21 nations were able to meet in Panamá and there within a few days

² See above No. 225. In 1934, The Platt Amendment was abrogated, the United States, however, retaining the naval base at Guantanamo.

³ This boundary dispute flared into open warfare in 1928, when an appeal was made to the Council of The League of Nations and hostilities were suspended. The war broke out anew in 1932. Peace was finally made between the two nations upon the mediation of the principal American nations.

unanimously to determine upon measures to safeguard themselves, is one of the outstanding achievements — not of the last decade — but of the long development of inter-American relations.

Before undertaking to comment on the Declaration of Panamá, which advanced last October the proposition that the neutral American republics are entitled as a measure of continental self-protection to have those waters adjacent to the American Continent, which we regard as of primary concern and direct utility in our relations, free from the commission of hostile acts by the belligerents, I should like to ask that you imagine that the recent naval engagement off the coast of Uruguay had instead taken place off the southern shore of Long Island. . .⁴

The Declaration of Panamá sets forth that the family of American nations, neutrals in the present conflict, separated from the belligerent countries by thousands of miles and a broad ocean, are entitled — and by right of self-protection entitled — not to have the war brought to the neighborhood of the New World.

The Declaration must be viewed in terms of an evaluation of the collective rights of the neutral nations of an entire hemisphere, when confronted with a conflict absorbing the energies of three of the principal nations of another continent. The indiscriminate laying of mines in the North Sea, the seizure of exports consigned by one of the belligerents to neutrals, and interference with the mails are recent examples of the degree to which an individual nonbelligerent may rely on what international conventions tell him about his neutral rights in time of war. One of the most important factors leading to the increase in the number of participants in the war 25 years ago was the throttling of neutral trade, accompanied by a progressive trampling by belligerents upon neutral rights.

The criticism has been made that the Declaration will not be enforced, the inference apparently being that force may be required, and that unless force is brought to bear the doctrine is merely a limp scarecrow, to be knocked flat by the first gust of wind, and then to be forgotten.

That is a short view and one which overlooks both the vitality of the present inter-American relationship and the direction of the growth of that relationship. Such evolution is necessarily gradual, as an examination of the development of the concept of continental solidarity will disclose, but it is nonetheless increasingly powerful and effective. Consider by way

⁴ At the Panamá Conference, 1939, a declaration was adopted by the American republics forbidding hostilities by European belligerents within 300 miles of the coasts of the American republics. No means for enforcing the declaration were suggested. On December 13, 1939, the raiding German warship *Graf Spee* was, after a severe engagement, brought to bay by three British cruisers and sunk by its crew in the mouth of the Plata River after brief sanctuary at Montevideo.

of illustration the contrast between the divergent views of the American neutrals that existed 25 years ago and the views prevailing among the American republics today. The test of time, measured in longer units than weeks, is necessary to gauge the effectiveness of the doctrine expressed in the Panamá Declaration. Let it be remembered that our relationship is not a static association and that the machinery of consultation is in more useful operation today than ever before, that through daily exchanges of views the governments concerned are trying to determine at each stage the most practical steps to take in furtherance of their common aims. And let it be written as significant that the Declaration interprets the will of the people of 21 neutral countries to preserve this continent—our continent and theirs—for peace.

In the economic field the decade of the 1930's represented a period of trade and financial dislocation and of efforts to adjust the life of the Americas to social as well as to economic change. The achievements in the economic field were not so striking nor so readily defined as those that took place in the field of inter-American political relations. It was perhaps a period of development and of progress toward achievement, rather than of achievement itself.

An important exception was in the realm of transportation, since the decade saw not only a great improvement in steamship services among the Americas but saw also the coming of age of international aviation. For people in the United States, with the easy accessibility of every part of the country through our network of railroads and highways, the airplane was a logical and natural development. . . . But for many of the areas to the south the change was from muleback to the airplane—not in a century but in a single decade. There are towns in South America today, hundreds of miles from the nearest railroad and without a single automobile, towns whose roofs and plazas echo daily with the hum of the airplane engine.

The problems resulting from tariff nationalism have been recognized, and there has been a general realization of the direction in which we must move to find relief. Substantial progress has been made toward opening the channels of trade, at the same time that the mechanics of international trade have not grown simpler but have become—with quotas, controlled exchange rates, and blocked balances—more complex.⁵

⁵ The dislocation of trade and the fact that the United States possessed the bulk of the world's gold supply made it impossible for the Latin-American nations to carry on normal trade. They, therefore, resorted to quotas and barter; exchange rates were artificially and arbitrarily adjusted to direct trade toward various nations; and trade balances were "blocked" so that importations might be made only from nations from which balances were due.

The problem of external debts, which the 1930's inherited from the preceding decade, has attained only partial solution. Until that situation is finally settled, on terms satisfactory alike to debtor and creditor, it constitutes an obstacle to development.⁶

There is the problem of direct investments abroad and their relationship to governments and to the structure of society in the other American republics. No one will successfully deny the importance of the contribution of many of these enterprises toward material well-being and in promoting the development of natural resources. Today a number of our sister republics are in urgent need of additional capital, the reluctance of which to move abroad — although understandable in terms of certain recent experiences — is nevertheless causing a deferment of the satisfaction of their legitimate needs. And yet, until mutually equitable ways have been found for integrating some of these enterprises within the local economic patterns, and for adjusting them to the changed and changing requirements of society, it seems possible that private capital may continue to remain aloof. . . .⁷

When one remembers the commercial dislocation caused by the outbreak of European hostilities in 1914, it is heartening to realize how much less serious was the immediate impact of war a quarter of a century later. This was so, not because the economic armor of the individual American republics had become in the interval less vulnerable, but because whereas in 1914 each of the 21 nations stood alone, in 1939 they stood together. . . .

At the Panamá meeting, to which I have already referred, the American republics created a Financial and Economic Advisory Committee composed of one representative from each country. The Committee began its work on November 15 and will remain in continuous session. Its general purpose is to further the development of healthy economic life in the Americas, and although it would be premature to predict what types of joint action the Committee may from time to time recommend,

⁶ In the period before 1929, many of the South American states contracted large loans in the United States on which they later defaulted. The manner in which some of these loans were negotiated and later sold has made American investors decidedly wary.

⁷ The Latin-American countries, highly nationalistic, have resented the exploitation of their natural resources by foreign, especially American, corporations with the consequent flow of wealth from the country. Expropriation of foreign owned properties has consequently taken place in Mexico and Bolivia. Foreign capital has, accordingly, shown a reluctance to further investment and the establishment of an Inter-American bank to supply needed capital was suggested at the Panamá Conference.

much useful preliminary work has already been accomplished. In considering the direction of future economic collaboration, it should be noted that the process of consultation now invoked has not been limited to mitigating the effects of the war. The coöperative actions born of the emergency are in addition including the study of long-range economic problems, quite aside from those resulting from hostilities. There is a new emphasis upon the necessity of the prosperous development of our neighbors to the south if healthy inter-American trade relations are to obtain. Not only must the channels of trade be kept open, but merchandise must flow in each direction.

Finally, there is the field of human relationships, a less tangible area than those of international policy and economics, but perhaps the most important field of all. It may seem strange in future years that this was the last to engage our attention and that in the New World an awareness of each other — not as governments, but as individual people — developed so slowly.

The cordiality of governments is important and desirable. But no matter how genuine that cordiality may be, and no matter how warm may appear from official messages to be the esteem of a government leader in one country for the chief of state of another, that cordiality is a superficial and transient phenomenon unless it is founded on the understanding of peoples and on their genuine liking and respect for each other. In a world in which governments exist to serve and not to dominate or to impose — in a world in which the dignity of the individual is maintained — in short, in our American world — it is the human relationship that constitutes the first and the essential ingredient in international friendship.

It is especially encouraging therefore to record that the decade of the 1930's saw such substantial progress in the field of human relations. To-day, there has already developed in the American republics a sound reciprocal appreciation of literature, music and painting, of our indigenous art, and of the opulent treasures of our joint colonial heritage. Today, more young men and women than ever before are studying the languages spoken by our neighbors to the south; similarly, more students and teachers from Mexico, Middle and South America, and the Caribbean are coming north to visit our people and to learn our way of life. These are developments of the utmost importance to all the Americas.

In one respect, however, this interchange has not yet fulfilled its possibilities. People know each other not by reading, motion pictures, or radio — which are after all merely valuable adjuncts to understanding — but by meeting one another and by establishing personal associations, as individuals. And thus far, relatively few citizens of the United States have

visited the southlands. . . Transportation facilities are available. The sea lanes of the New World are open, and we have expressed our determination to maintain them. Superior accommodations by air and land and water are at our disposal. Passport requirements have not, as they have for travel to various other parts of the world, been rendered more complicated or difficult. . .

The role of governments in promoting friendly individual relations among people is necessarily limited. We have no "official culture" to sell to any of our neighbors. The idea, in fact, of an official culture is repugnant to us, and it would be equally repugnant to them. In the field of human association the role of a government is to encourage, to co-operate, and to coördinate private initiative and the initiative of institutions seeking to broaden the base of cultural appreciation. These it seems to me are useful and legitimate functions of governments truly representative of the peoples who compose them.

In the three areas of political relations, of economic relations, and of human relations the decade of the 1930's witnessed important advances. The background of peace, trade, and cultural interchange has given to us, individuals in the great family of 250,000,000 citizens of the American republics, a larger stake than ever before in the maintenance in the years to come of this, our inter-American era of good feeling.

INDEX

- Abolition, Garrison on, 325-327
 Adamson Act, 706-707
 Administration of Justice Act, 109-110
 Agricultural Adjustment Act, May 12, 1933, 805-814
 "Alabama Claims" arbitration, 552-558
 Alaska, purchase treaty, 535-537
 Albany Plan of Union, 62-65
 Alien Act, 222-223
 American Federation of Labor, 745-751
 Amnesty Proclamation, Lincoln's, 511-514; Johnson's, 525-527
 Arbitration, Geneva, 552-558
 Armistice Notes, 740-745
 Articles of Confederation, 141-148; defects in, 176-179
 Association, The, 116-120; enforcement of, 120-122
 Austria and Mexico, 530-532

 Bank of the United States, Second, 268-271; recharter veto, 328-333
 Bank Holiday, 801-805
 Berlin Decree, 247-249
 Bill of Rights, Virginia, 134-136; Massachusetts, 154-159
 Bimetallism, Cleveland on, 575-577
 Birkbeck, Morris, on the westward movement, 272-278
 Blaine, James G., Mulligan Letters, 561-567
 Bland-Allison Act, 568
 Board of Trade, establishment of, 42-44; working of, 73-75, 79-81
 Bonus Bill, veto of, 278-279
 Boston Port Act, 105-106
 Boston Tea Party, 99-101
 Buchanan, James, veto of Homestead bill, 479-481
 Budget Act, 774-776
 Butler, B. F., on "contrabands," 479-498

 Cadore Letter, 262-263
 Calhoun, John C., *Exposition*, 311-317; last speech, 389-395
 Cambridge Agreement, 15-16
 Canning, George, and Monroe Doctrine, 300-302
 Carolina, Fundamental Constitutions of, 33-35; in 1757, 65-70
 Carrington, Edward, on Shay's Rebellion, 166-170
 Charleston Convention, report of, 453-465
 Charters, Virginia, first, 4-8; second, 8-9; third, 9-10; Massachusetts, 11-15; Maryland, 16-19; Connecticut, 28-31; Rhode Island, 31-33; Pennsylvania, 36-38; of Second Bank, 268-271
 Chicago Convention 1860, report of, 465-479
 China, open door negotiation, 627-630; second open door note, 631-632
 Chinese Exclusion Act, 568-571
 Chinese Indemnity, return of, 666-668
 Civil Rights Act, 528-530
 Civil Service, Pendleton Act, 571-574; act of 1871, 547-548
 Clay, Henry, Compromise report, 406-413
 Clayton Anti-Trust Act, 683-686
 Clayton-Bulwer Treaty, 403-406
 Cleveland, Grover, on bimetallism, 575-577; and Venezuela Controversy, 594, 600-601
 Colonization, advantages of, 1-4
 Compromise of 1850, Clay's report, 406-413; Texas and New Mexico Act, 416-417; Utah Territory Act, 417-418; Fugitive Slave Law, 418-421; Abolition of District slave trade, 421
 Compromise Tariff, 344-345
 Conciliation, Lord North's proposals, 149-151

- Confederate call to arms, 495-496
 Confederate Constitution, 488-494
 Confiscation Act, Second, 502-505
 Congress of Industrial Organizations (C.I.O.), 854-860
 Connecticut Charter, 29-31; Coppermine Prison, 258-260
 Conservation, Roosevelt on, 639-643
 Conservation Act, 593-?
 Constitution of the United States, 179-190; Amendments I-X, 204-205; Amendment XI, 222; Amendment XII, 242-243; Amendment XIII, 528; Fourteenth Amendment, 546-547; Fifteenth Amendment, 547; Sixteenth Amendment, 670; Seventeenth Amendment, 670; Eighteenth Amendment, 754; Nineteenth Amendment, 758; Twentieth Amendment, 800-801; Twenty-first Amendment, 828-829
 Constitution, of Missouri, 290-291; Lecompton (Kansas), 437-440; Confederate, 488-494; Oregon Amendments, 643-644; Recall Amendment, 668-669; American Federation of Labor, 745-751; Congress of Industrial Organizations (C.I.O.), 854-860
 "Contrabands," Butler on, 479-498
 Conventions, Charleston, 1860, 453-465; Chicago, 1860, 465-479
 Coolidge, Calvin, veto of McNary-Haugen bill, 790-795
 Cooper Institute, Lincoln's speech, 448-453
 Coppermine Prison, 258-260
 Corwin, Thomas, on Mexican War, 373-377
 "Crime of 1873," 558-560
 Crittenden, J. J., Resolution on causes and purposes of war, 498-499
 Cuba, Proctor's speech on, 612-617; recognition of independence, 620-621; Platt Amendment, 632-634
 Declaration of Causes, 127-130
 Declaration of Independence, 137-141
 Declaration of War, 1812, 263-264; with Germany, 712-713
 Declaratory Act, 94
 De Lome letter, 609-612
 Democratic Platform, 1864, 522-523; 1896, 604-605; 1932, 795-800
 District of Columbia slave trade abolished, 421
 Dix, Dorothea, on treatment of insane, 364-367
 Douglas, Stephen A., Freeport Heresy, 442-444
 Draft Act, 507-510
 Dummer, Jeremiah, A Defence of The New England Charters, 51-54
 Dunmore, Lord, on the Association, 120-122
 Education, in North Carolina, 243-247; in Pennsylvania, 319-322; in Massachusetts, 352-359
 Eighteenth Amendment, 754
 Emancipation Proclamation, 506-507
 Embargo Act, 253-254
 Emigrant Aid Society, 427-430
 English Act, 440-442
 Entente, Loans to, 713-714
 Esch-Cummins Act, 759-768
 Espionage Act, 719-723; amendment to, 735-737
 Fair Labor Standards Act, 1938, 849-854
 Farewell Address, 216-221
 Farmers' Alliance, 586-593
 Federal Reserve Act, 673-679
Federalist, The, extracts from, 176-179
 Fifteenth Amendment, 547
 Finance, Hamilton on public credit, 194-200; Hamilton on a bank, 200-203; Second Bank charter, 268-271; Jackson's Bank veto, 328-333; Subtreasury, 348-351; National Bank Act, 514-519; Act of 1873, 558-560; Resumption of specie payments, 560-561; Bland-Allison Act, 568; Cleveland's message 1885, 575-577; Sherman Silver Purchase Act, 585-586; repeal of Sherman Silver Purchase Act, 601-602; Gold Standard Act of 1900, 630-631; Federal Reserve Act, 673-679; loans to the

- Entente, 713-714; Bank Holiday, 801-805
- First Continental Congress, call of, 110-111; meeting of, 115-116; Association adopted by, 116-120
- First Fireside Chat (Banking), 802-805
- Florida, cession of, 281-284
- Force Bill, 342-344
- Four Power Treaty, 776-777
- Fourteen Points, the, 729-731
- Fourteenth Amendment, 546-547
- France, La Salle explores the Mississippi for, 39-41; settles Louisiana, 44-47; and Canada, 58-60; and Louisiana Purchase Treaty, 240-242; Berlin Decree, 247-249; Milan Decree, 252-253; Rambouillet Decree, 260-261; and Mexico, Seward on, 530-532; Washington Conference, 776-783
- Franklin, Benjamin, on the Stamp Act, 88-94
- Freeport Heresy, 442-444
- Fugitive Slave Law, 418-421
- Fundamental Constitutions of Carolina, 33-35
- Gadsden Treaty, 423-424
- Garrison, William Lloyd, on abolition, 325-327
- Geneya Award, 552-558
- Georgia Platform, 422-423
- Germany, submarine controversy with, 689-693; submarine pledge, 696-700; declaration of war with, 712-713; armistice with, 740-745; Peace Resolutions of 1920, 768-773
- Gettysburg Address, 510-511
- Ghent, Treaty of, 264-268
- Gold Standard Act of 1900, 630-631
- Government of Massachusetts Act, 106-109
- Grange, founding of, 548-552
- Great Britain, Treaty of 1783, 159-162; Orders in Council of, 249-252; declaration of war 1812, 263-264; Treaty of Ghent, 264-268; Rush-Bagot Agreement, 280; Oregon Convention with, 280-281; Webster-Ashburton Treaty, 361-364; Oregon Treaty, 369-370; Clayton-Bulwer Treaty, 403-406; Venezuela controversy, 594-601; Hay-Pauncefote Treaty, 634-636; Washington Conference, 776-783
- Guadalupe Hidalgo, treaty of, 384-386
- Haiti, treaty of occupation with, 693-696
- Hakluyt, Richard, on colonization, 1-4
- Halstead, Murat, reports of conventions of 1860, 453-479
- Hamilton, Alexander, on defects in the Confederation, 176-179; on the public credit, 194-200; on a bank, 200-203
- Hawaii, annexation of, 621-623
- Hay, John, open door negotiation, 627-630; second open door note, 631-632
- Hay-Pauncefote Treaty, 634-636
- Henry, Patrick, on the Stamp Act, 84-86
- Homestead Act, 501-502
- Homestead Bill, vetoed 1860, 479-481
- Impeachment of Johnson, 540-545
- Independence, resolved on, 137
- Industrial Workers of the World, purposes, 752-753
- Initiative, 643-644
- Insane, treatment of, 364-367
- Interstate Commerce Act, 577-584
- "Irrepressible Conflict," Seward's speech, 444-448
- Jackson, Andrew, inauguration, 318-319; Jefferson Banquet Toast, 323-325; bank veto, 328-333; Proclamation to South Carolina, 335-342; on Texas, 346-348
- Japan, Washington Conference, 776-783
- Jay's Treaty, 206-214
- Jefferson, Thomas, inaugural, 231-234; and Monroe Doctrine, 302-303
- Jefferson Banquet Toast, 323-325
- Johnson, Andrew, Amnesty Proclamation, 525-527; on Stanton's re-

- moval, 537-540; impeachment, 540-545
 Judiciary Act of 1789, 190-194
 Kalm, Peter, describes French-Canada, 60-62; describes Philadelphia, 58-60
 Kansas, emigration to, 427-431; Le-compton Constitution, 437-440; English Act, 440-442
 Kansas-Nebraska Act, 424-427
 Kentucky, Revival in, 234-236
 Kentucky Resolutions of 1798, 224-227; of 1799, 228
 Know-Nothings, 431-435
 Land Law of 1800, 229-231; of 1820, 279-298
 La Salle, Sieur de, exploration of the Mississippi, 39-41
 Latin American Policy, 867-874
 Lecompton Constitution, 437-440
 Legal Tender Act, 499-501
 Lever Act, 724-729
 Lexington and Concord, accounts of, 124-127
Liberator, The, 325-327
 Lincoln, Abraham, Cooper Institute speech, 448-453; First Inaugural, 485-488; Call to Arms, 494-495; Emancipation Proclamation, 506-507; Gettysburg Address, 510-511; Amnesty Proclamation, 511-514; on Wade-Davis bill, 521-522; Second Inaugural, 523-525
 Lodge, Henry C., Amendment to Monroe Doctrine, 669-670
 Lords of Trade, 35-36
 Louisiana, the French in, 44-47; Purchase Treaty, 240-242
Lusitania, first note, 689-693
McCulloch vs. Maryland, 284-287
 McKinley, William, war message, 617-620
 McNary-Haugen Bill, 783-789; veto of, 789-795
 Macon's Bill, No. 2, 261-262
 Madison, James, veto of Bonus bill, 278-279
 Man Power Act, 739-740
 Mann, Horace, on education, 352-359
Marbury vs. Madison, 236-239
 Marshall, John, *Marbury vs. Madison*, 236-239; *McCulloch vs. Maryland*, 284-287
 Maryland charter, 16-19
Maryland, McCulloch vs., 284-287
 Massachusetts, charter, 11-15; act for government of, 106-109; Bill of Rights, 154-159; education in, 352-359; insane in, 364-367
 Mayflower Compact, 10-11
 Mexican War, Whigs on, 373-380
 Mexico, treaty of Guadalupe Hidalgo, 384-386; Gadsden Treaty, 423-424; Seward's despatch on French in, 530-532
 Middle Colonies, life in, 55-58
 Milan Decree, 252-253
 Missouri Compromise, 287-291
 Molasses Act, 54
 Monroe Doctrine, 298-307; Roosevelt Corollary, 665-666; Venezuela controversy, 594-601; Lodge amendment, 669-670; *see also* Farewell Address
 Mulligan Letters, 561-567
 Nashville Convention, resolutions, 413-415
 National Bank, Hamilton on, 200-203
 National Bank Act, 514-519
 National Industrial Recovery Act, 821-828
 National Labor Relations Board, 835-838
 Naval Limitation Treaty, 777-783
 Navigation Acts, 1660, 24-26; 1663, 26-27; 1672, 27-28
 Neutrality, Proclamation of 1793, 205-206; Proclamation of 1914, 679-682; Law of 1939, 860-867
 New England, in 1720, 47-51; liberties defended, 51-54
 New England Confederation, 19-23
 New Hampshire, government in, 131-133
 New Mexico, in Compromise of 1850, 416-417
 New York, penal system, 309-311

- Newlands Conciliation Act, 670-673
 Nineteenth Amendment, 758
 Non-intercourse Act, 256-258
 North, Lord, proposals for conciliation, 149-151
 North Carolina, Regulators, 96-99; education in, 243-247
 Northern Securities Decision, 659-666
 Nullification, South Carolina's, 333-335

 Olney, Richard, and Venezuela controversy, 595-598
 Open Door Negotiations, 627-630
 Open Door Notes, second, 631-632
 Orders in Council, of January 7, 1807, 249-250; of November 11, 1807, 250-252; Ordinance of Nullification, South Carolina, 333-335
 Ordinance of 1787, 170-176
 Ordinance, South Carolina, of secession, 481-482
 Oregon, initiative and referendum, 643-644; recall amendment, 668-669; Oregon Convention of 1818, 280-281; Oregon treaty of 1846, 369-370
 Overman Act, 737-738

 Panama, revolution in, 646-655
 Panama Canal, Hay-Pauncefote Treaty, 634-636; *see also* Clayton-Bulwer Treaty
 Panama Canal Treaty, 655-659
 Panama Congress, 307-309
 Patrons of Husbandry, 548-552
 Peace Congress of 1861, 482-484
 Penal System, New York, 309-311
 Pendleton Act, 571-574
 Pennsylvania Charter, 36-38; education in, 319-322
 Philadelphia, described by Kalm, 58-60
 Philadelphia Conventions, Call of, 163-166
 Philippine Islands, pacification proclaimed, 644-646; Organic Act, 700-706
 Platforms, Republican, 1856, 435-437; Democratic, 1864, 522-523; Republican, 1896, 602-603; Democratic, 1896, 604-605; Populist, 1896, 605-609
 Platt Amendment, 632-634
 Populist Platform, 1896, 605-609
 Porto Rico, Organic Act, 707-712
 Preëemption Act, 359-361
 Prisons, Coppermine, 258-260; New York, 309-311
 Proclamation of 1763, 75-79; of Neutrality, 1793, 205-206; Jackson's to South Carolina, 335-342; Emancipation, 506-507; Lincoln's Amnesty, 511-514; Lincoln's on Wade-Davis Bill, 521-522; Johnson's Amnesty, 525-527; Philippines pacified, 644-646; Neutrality, 1914, 679-682; Fixing the weight of the gold dollar, 829-832
 Proctor, Senator, speech on Cuba, 612-617
 Public Credit, Hamilton on, 194-200
 Public Lands, Act of 1800, 229-231; Act of 1821, 297-298; Act of 1841, 359-361; Homestead Bill veto, 1860, 479-481; Homestead Act, 501-502; Conservation Act

 Quarantining War Speech, F. D. Roosevelt's, 848
 Quebec Act, 111-115

 Railway Administration Act, 732-735
 Railway Legislation, Esch-Cummins Act, 759-768
 Railway regulation, Interstate Commerce Act, 577-584; Newlands Act, 670-673; Adamson Laws, 706-707
 Rambouillet Decree, 260-261
 Recall, the, 668-669
 Reconstruction, Lincoln's Amnesty Proclamation, 511-514; Wade-Davis Bill, 519-521; Lincoln on Wade-Davis Bill, 521-522; Johnson's Amnesty Proclamation, 525-527; Civil Rights Act, 528-530; Act of March 2, 1867, 533-535
 Referendum, 643-644
 Regulators, in North Carolina, 96-99
 Republican Platform of 1856, 435-437

- Republican Platform, 1896, 602-603
 Resumption of specie payments, 560-561
 Revivals, in Kentucky, 234-236
 Rhode Island, charter, 31-33
 Roosevelt, Franklin D., First Fireside Chat (Banking), 802-805; Proclamation fixing the weight of the gold dollar, 829-832; Quarantining War Speech, 845-849
 Roosevelt, Theodore, on the trusts, 637-639; on conservation, 639-643; proclaims Philippines pacified, 644-646; corollary to Monroe Doctrine, 665-666
 Rush-Bagot Agreement, 280
 Russia, Ukase of 1821, 298-300; treaty with, 306-307; Alaska purchase, 535-537
 Secession of South Carolina, 481-482
 Second Bank of the United States Charter, 268-271; recharter veto, 328-333
 Second Confiscation Act, 502-505
 Second Continental Congress, Declaration of Causes, 127-130; Advice to form state governments, 133-134; Resolution for Independence, 137; Declaration of Independence, 137-141
 Sedition Act, 223-224
 Selective Service Act, 714-718; Seventeenth Amendment, 670
 Seventh of March Speech, 395-403
 Seward, W. H., "irrepressible conflict" speech, 444-448; despatch on French in Mexico, 530-532
 Shay's Rebellion, 166-170
 Sherman Anti-Trust Law, 584-585
 Sherman Silver Purchase Act, 585-586; repealed, 601-602
 Silver Purchase Act of 1934, 832-835
 Sixteenth Amendment, 670
 Slave trade, act prohibiting, 254-256
 Slavery, southern defense of, 380-383
 Social Security Act, 838-844
 South Carolina, *Exposition and Protest*, 311-317; Nullification, 333-335; ordinance of secession, 481-482
 Southern migration to Kansas, 430-431
 Spain, treaty with, 1795, 214-216; Florida Cession, 281-284; treaty of peace, 623-626; war with, De Lome letter, 609-612; Proctor's speech, 612-617; McKinley's War Message, 617-620; recognition of Cuban independence, 620-621
 Specie Circular, 345-346
 Stamp Act, 83-84; Benjamin Franklin on, 88-94; Congress, resolutions of, 86-88; Patrick Henry on, 84-86
 Stanton, E. M., removal of, 537-540
 State Governments, formed in New Hampshire, 131-133; Congress recommends, 133-134; Virginia, 134-136; Massachusetts, 154-159
 Stephens, Alexander H., on Mexican War, 377-380
 Submarine controversy, 689-693; German pledge, 696-700; Subtreasury, Van Buren on, 348-351
 Sugar Act, 81-83
 Tallmadge Amendment, *see* Missouri Compromise
 Tennessee Valley Authority, 814-821
 Tenure of Office Act, 532-533
 Texas, Settlement of, 292-297; Jackson on, 346-348; recognition of, 346-348; annexation of, 367-369
 Texas and New Mexico Act, 416-417
 Thomas Amendment, *see* Missouri Compromise
 Tories, treatment of, 122-124
 Townshend Act, 95-96
 Trade Commission Act, 683-686
 Treaties with France, 151-154; of 1783, 159-162; Jay's, 206-214; with Spain, 1795, 214-216; Louisiana Purchase, 1803, 240-242; of Ghent, 264-268; with Spain, 1819, 281-284; with Russia, 1825, 306-307; Webster-Ashburton, 361-364; Oregon of 1846, 369-370; of Guadalupe Hidalgo, 384-386; Clayton-Bulwer, 403-406; Gadsden, 423-424; Alaska Purchase, 535-537; with Panama, 655-659; with Spain, 1898, 623-626; Hay-Pauncefote, 634-636; with Haiti, 1916, 693-

- 696; Four Power, 776-777; Naval Limitation, 777-783
- Trusts, Sherman Act, 584-585; Roosevelt on, 637-639; Northern Securities decision, 659-666; Clayton Anti-Trust Act, 683-686; Trade Commission Act, 683-686
- Twentieth Amendment, 800-801
- Twenty-first Amendment, 828-829
- Utah Territory Act, 417-418
- Van Buren, Martin, on the Subtreasury, 348-351
- Venezuela Controversy, 594-601
- Veto of Bonus bill, 278-279; Jackson's bank, 328-333; of Homestead bill, 479-481
- Virginia, charters, 4-10; description of, 70-73; Bill of Rights, 134-136
- Virginia Resolutions of 1798, 227-228
- Volstead Act, 754-758
- Wade-Davis Bill, 519-521
- Washington, George, Farewell Address, 216-221
- Washington Conference, 776-783
- Webster, Daniel, Seventh of March Speech, 395-403
- Webster-Ashburton Treaty, 361-364
- Western unrest, 102-105
- Westward Movement, 272-278
- Whitney, Thomas, on Know-Nothings, 431-435
- Wilmot Proviso, 370-373; the South on, 386-388
- Wilson, Woodrow, neutrality proclamation, 679-682; first *Lusitania* note, 689-693; the Fourteen Points, 729-731; armistice notes, 740-745
- World War, Loans to Entente, 713-714; Selective Service Act, 714-718; Espionage Act, 719-723; Lever Act, 724-729; Fourteen Points, 729-730; Railway Administration Act, 732-735; Amendment to Espionage Act, 735-737; Overman Act, 737-739; Man Power Act, 739-740; armistice notes, 740-745; Esch-Cummins Act, 759-768; Peace Resolutions of 1920, 768-773

